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portation

Alternative Financing for Urban Transportation

The State of the Practice

July 1986

NOTE: This report is a review of alternative and innovative approaches to financing urban transportation. Several of the techniques are made possible by unique state or local laws or conditions. Some of the material deals with conceptual approaches which have not yet been implemented. Readers should carefully consider their own local conditions in evaluating specific techniques for implementation.

Alternative Financing for Urban Transportation

The State of the Practice

Final Report
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Introduction

Alternative Financing for Urban Transportation: State-of-the-Practice is a summary of the use, by 52 agencies, of non-traditional techniques for funding transit and urban highway services. This report is designed to introduce public officials at the State and local levels to a range of available funding sources and to facilitate their efforts in determining whether these sources will be useful in meeting their transportation needs.

The 55 case analyses included in the report reflect the variety of efforts being made by large and small transportation agencies to cope with shortfalls in funding. These efforts were selected for inclusion because they entailed one or more of the following characteristics:

- o use of non-traditional sources of revenue
- o strong involvement of the private sector
- o use for the first time in the transportation field (although there may have been previous non-transportation applications)
- o creative examples of public/private cooperation.

Overview

Alternative Financing for Urban Transportation is divided into nine sections:

I. Taxes
II. Assessments
III. Fees
IV. Negotiated Investments
V. Private Donations and Initiatives
VI. Use of Property and Property Rights
VII. Private Development and Provision of Facilities and Services
VIII. Toll Financing.
IX. A New Approach to Developing Rapid Transit

Taxes are the primary sources for local and State funding of transportation. All of the taxes examined in this section are dedicated for transportation uses.

Assessments are taxes or fees on all properties within a special district which pay for all or a part of specific improvements made within that district. Assessments are levied as one-time or recurring liens by city councils or special districts.

Fees are distinguished from taxes in that taxes are, for the most part, levied on the general populace while fees are used to segment a portion of the population that is causing a significant impact on transportation, or that particularly benefitting from transportation improvements. Impact fees imposed on developers to mitigate the impact of their projects on roads and transit services are becoming increasingly popular.

Negotiated Investments include private sector contributions or improvements exchanged for zoning changes, building permits, or other public requirements. The public sector often provides significant initiative in negotiating for these improvements.

Private Donations and Initiatives result when a private developer or individual wants an improvement in facilities or services that may not be a high public priority, or perceives that there is a benefit to be obtained from participating in provision of a public sector service.

Use of Property and Property Rights to generate additional revenues for the public sector usually involves airspace, land, or facilities leases. Leasing or selling development rights, also known as joint development, is a method of capturing the full or partial value of land holdings or unused space.

Private Development and Provision of Facilities and Services focuses on the recent re-introduction of the private sector into the public transportation industry, which is part of a larger movement towards privatizing a variety of public sector services. Privatization often results in substantial public sector savings due to creation of a competitive environment for service provision.

Toll Financing has substantial historical precedent in transportation, but has not been widely used for new facilities in recent years. However, toll financing is regaining popularity as an effective and efficient technique for financing, building, and operating a specific roadway that might otherwise be infeasible for the public sector to construct.

A New **Approach to Developing Rapid Transit** examines innovative public/private partnerships to finance fixed-guideway rapid transit systems.

These categories are used to present the case studies as logically as possible. A brief introduction precedes each section, defining the technique and summarizing the salient points of each case included. Not all of the cases are easily classified; the rationales for these decisions are explained as needed in the section introductions.

Case Analyses

Each case analysis of the 55 experiences with creative financing techniques is divided into eight sections.

Overview	Description of the experience and the conditions under which a financing technique was used.*
Results	The direct or indirect benefit to the transportation agency and other parties participating in the implementation of the technique.
Legal Issues	Any legislative or legal requirements associated with use of the technique and any legal problems encountered.
Political Issues	Political events that helped or hindered successful use of the technique.
Timing	The amount of time needed to implement the technique.
Contact	Name, address, and telephone number of the local official(s) and/or private sector individual(s) to contact for further information.
References	Published documentation containing more detailed information on the technique or experience.
Related Experience	Brief description of other experience compared or contrasted to the main case analysis.

*The **Overview** also contains population figures for each area. Most figures are drawn from 1984 U.S. Census updates, but in some cases other figures are used where 1984 numbers were not available or where more recent information was obtained.

Case Study Locations

Matrix of Financing Techniques by Mode and Private Involvement Applicability*

	Financing Technique	Applicability			
		Highway/ roads use	Transit use	Private Funding	Private Involvement
I.	**Taxes**	3, 8, 10, 15	3, 6, 8, 10, 12, 13 15, 17		13, 15 17
II.	**Assessments**	23, 25	28, 30 32	23, 25 28, 30 32	23, 25 28, 30 32
III.	**Fees**	37, 39 41, 43 45, 48 50,	52	37, 39 41, 43 45, 48 50, 52	37, 39 41, 43, 45, 48 50, 52
IV.	**Negotiated Investments**	62, 65	57, 59 61	57, 59 61, 62 65	57, 59 61, 62 65
V.	**Private Donations and Initiatives**	71, 79 80, 83	73, 75 77, 81	71, 73 75, 77 79, 80 81, 83	71, 73 75, 77 79, 80 81, 83
VI.	**Use of Property and Property Rights**	87, 92 97	90, 94 98, 100		87, 90 92, 94 97, 98 100
VII.	**Private Development and Provision of Facilities and Services**	111, 113	105, 107 109, 115 117, 119 121, 123	105, 107 109, 111 113,	105, 107 109, 111 113, 115 117, 119 121, 123
VIII.	**Toll Financing**	127, 129 131			127
IX.	**A New Approach to Developing Rapid Transit**		135	135	135

*Numbers used in this table refer to pages in the report.

I. Taxes

Taxes are the primary source for local and State funding of transportation. Traditional taxing techniques for transportation may be dedicated or non-dedicated, and include ad valorem property taxes, registration fees and motor fuel taxes. Cases included in this report do not re-examine these techniques except where the example demonstrates an unusual aspect of the mechanism or where a program has an important effect on transportation funding. All of the taxes examined in this section are dedicated for transportation uses.

- The **State of California** Transportation Development Act uses State fuel and sales tax funds to provide 20 percent of transit revenues in the State.

- The motor vehicle excise tax in the **State of Washington** provides 25 percent of transit revenues statewide.

- While local option motor fuel taxes are enabled in 14 States, the **State of Florida** has made extensive use of the tax; 56 of 67 counties have adopted it. Florida law also authorizes three other local option transportation taxing mechanisms.

- The local option sales tax that has recently been established in **Maricopa County, Arizona** is unusual in that it is dedicated primarily to freeway construction.

- The use of beer tax revenues in **Birmingham, Alabama** for transit represents the first time these funds have been dedicated for a transportation use.

- The payroll tax to date has been authorized only in the State of Oregon. The technique is being used in **Portland** and **Eugene**.

- The tax increment financing mechanism (TIF) resembles assessments in the creation of special districts, but property owners' taxes do not rise as a direct result of TIF implementation. The ten TIF districts in **Prince George's County, Maryland** have funded over 72 projects worth $14 million.

- Although a lottery is not usually considered a taxing mechanism, it has been included in this section because the State "taxes" each chance purchased by earmarking a percentage of lottery sales revenues for specific State programs. It is rare for lottery funds to be dedicated for transportation programs, as they are in the **State of Pennsylvania** and the **State of Arizona**.

State Sales Tax and Sales Tax On Fuel

Overview

State of California *(1984 pop. 25,622,497)* - California has developed a local transportation funding program which encourages local support of public transportation needs and provides municipalities and transit agencies with a substantial funding source. The Transportation Development Act (TDA) provides funding for public transportation through two sources, the Local Transportation Fund and the regional State Transit Assistance Fund (STAF).

The Local Transportation Fund (LTF) receives revenues from 1/4 percent of the 6 percent State sales tax (the loss in General Fund revenues was offset by extending the sales tax to gasoline). The LTF funds are turned back to the county of origin and are apportioned within the county to the incorporated area of each city and the unincorporated area of the county on the basis of population. Where a county has a transit district, separate apportionments are made to areas within and outside the district.

In general, LTF funds may be used in the following manner. Counties with populations larger than 500,000 must use LTF funds for transit needs. Counties with fewer than 500,000 may use LTF funds for local roads and streets, once the local Transportation Planning Agency (TPA), usually the Metropolitan Planning Organization (MPO), has determined that all transit needs which can reasonably be met have been met. Funds are allocated from the county treasury to specific recipients for specific purposes.

Before apportioning, the local TPA may reserve up to 2 percent of LTF revenues for pedestrian and bicycle facilities. Up to 5 percent of remaining funds may be used for service for the elderly and disabled.

Revenues for the State Transit Assistance Fund (STAF) are derived from the State gasoline sales tax. Legislation provided that revenues attributable to gasoline sales over and above replacement of LTF to the General Fund, would be placed in the Transportation Planning and Development Account; these are known as spillover funds. The STAF represents 60 percent of the TPDA. Thirty percent of STAF funds are allocated on the basis of operator revenues. A region receives that portion of the 30 percent which equals the ratio of its operator revenues to the statewide total of operator revenues. The same process is used to calculate the individual operator's portion of the funding within a region. Operator revenue may include fares, discretionary allocations from local governments, and revenues from a local sales tax dedicated to transit -- consistent with the State's view that local support includes all local contribution to transit service.

Seventy percent of the STAF funds are allocated to the regions on the basis of regional population. In counties larger than 500,000, operators may only use STAF funds for transit purposes. In counties under 500,000, the funds may be used for transit or streets and roads where no unmet transit needs exist.

In order to qualify for funding under either program, a transit claimant must maintain a ratio of fare revenues to operating cost equal to the ratio it had during 1978-79 and equal to 20 percent if the claimant is in an urbanized area, or 10 percent if the claimant is in a non-urbanized area. In addition, the claimant must maintain a ratio of fare revenues plus local support to operating cost greater than the ratio it had during 1978-79 if its ratio was greater than 20 percent in an urbanized area or 10 percent in a non-urbanized area. Determination of compliance with these requirements is the responsibility of the local Transportation Planning Agency.

Results

The State is able to fund local public transportation while controlling by statute the level of State subsidy. In FY 1986 STAF funds totaled about $69.3 million, and the LTF about $535 million. Together the funds account for nearly 23 percent of total transit revenue in the State as compared to about 20 percent for farebox revenue.

Legal Issues

There have been no major challenges to the LTF funding program. However, several problems have arisen with the farebox recovery requirements. In rural areas which have been reclassified as urban since TDA was passed, meeting the 20 percent farebox requirement has sometimes proven difficult. Some operators have also protested that the base year, 1978-79, was exceptionally good, and that they are actually having to recover closer to 25-30 percent. A bill currently under consideration by the State legislature would allow TPAs in counties under 500,000 to reduce the 20 farebox recovery requirement to between 15 and 20 percent, and would remove the cumulative effect of penalties related to farebox recovery ratios. A recommendation to eliminate the base year requirement from the Act was deleted from the bill. Another bill amending the TDA would allow operators to exclude insurance costs in determination of their recovery ratio, which would have the effect of raising their recovery rate or decreasing the requirements. A second provision of this bill would make ridesharing programs eligible for TDA funds.

Political Issues

The State legislature is opposed to changing the essential outlines of the TDA. This year, however, despite legislative efforts, the governor has moved STAF funds to the general fund. Decreasing oil prices have made the amount of spillover revenues decrease substantially.

Timing

The Transportation Development Act was passed in 1971. In 1972 the Local Transportation Fund was created, and in 1980 the State Transit Assistance Fund was established. A Unified Transportation Fund was established by law in 1981, but no funds have been appropriated into the account, and the UTF legislation was repealed in 1985. Both the STAF and UTF were subject to appropriation by the legislature and inclusion in the State budget, unlike the LTF.

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References

State and Local Governmental Responses to Increased Financial Responsibility for Public Transit Systems, prepared by Erskine Walther, Transportation Institute, North Carolina A & T State University, November, 1983.

Transportation Development Act: Statutes and Administrative Code for 1984, State of California Business Transportation and Housing Agency, Department of Transportation, Division of Mass Transportation, September, 1984.

Public Transit Farebox Ratio Requirements Report, Report to the California Legislature, State of California Business, Transportation and Housing Agency, Department of Transportation, Division of Mass Transportation, December, 1985.

Motor Vehicle Excise Tax

Overview

State of Washington *(1984 pop. 4,349,002)* - Washington provides a dedicated source of funding for transit which emphasizes local commitment to support transit. Washington's Motor Vehicle Excise Tax (MVET) rate is 2.354 percent and is an annual State excise tax on the fair market value of motor vehicles. Cities and counties are permitted by the State to direct nearly half (1 percent) of the MVET for local public transportation needs. The remainder goes to the State ferry system, (0.2 percent) and to the State general fund (1.154 percent).

Any entity or municipality is eligible to collect the MVET levy except for city systems with a sales tax dedicated to transit where the system provides service to an area greater than the units of the municipality. Only funds generated within a transit system's service area may be used. The MVET funds must also be matched dollar-for-dollar using a local tax source from within a transit system's service area, or local general service fund revenues. Local tax sources may be a sales tax, or household or business tax.

Systems using MVET funding submit budgets each year to the State Department of License which projects tax revenues. Actual tax receipts are submitted in April of the following year, and compared with MVET disbursements. The Department of License then adjusts current year MVET funding as needed. The MVET funds are collected by the State and disbursed quarterly with a six month lag.

The MVET funding for local public transportation may be used for operating or capital expenses.

Results

MVET funds provide about 25 percent of transit revenues in Washington State. In the 1983-85 biennium, $169 million was available from the municipal levy. Only about $108 million was used, or matched, by municipalities and transit agencies. Remaining revenues go to the State general fund.

Legal Issues

Any municipality is eligible to collect the 1 percent MVET, known as the municipal levy. State courts have ruled that the 1 percent MVET municipal levy is a local tax and is not subject to appropriation by the State legislature.

Political Issues

No political issues were reported.

Timing

The municipal levy was first used in 1971.

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References

State and Local Governmental Responses to Increased Financial Responsibility for Public Transit Systems, prepared by Erskine Walther, Transportation Institute, North Carolina A & T State University, November, 1983.

Local Option Transportation Taxes

Overview

State of Florida *(1984 pop. 10,975,748)* - Florida has two types of local motor fuel taxes for transportation. The first, the voted gas tax, was approved by the State legislature in the early 1970s. This tax is limited to 1 percent per gallon and is subject to voter approval via county-wide referendum. Twelve counties have exercised the voted gas tax.

The second tax, the local option gas tax, was approved by the State legislature in 1983. The tax rate is limited to not more than 6 percent per gallon (in whole pennies). Implementation requires a simple majority vote of a county commission.

The State's Department of Revenue is responsible for collection of local fuel taxes from retailers. For the local option tax, 91.5 percent of the funds collected are distributed, on a monthly basis, back to the counties/cities according to a distribution formula established in an Interlocal Agreement. The State keeps 6 percent of the revenues collected to cover administrative and overhead costs. A retail collection fee of about 2.5 percent is also applied to revenues from the local option and the voted gas tax.

Funds can be dedicated for any transportation need, either highway-or transit-related.

Results

Twelve counties have passed a voted gas tax, and 56 counties now have a local option gas tax, 31 of which have imposed the maximum amount. Each penny of the Hillsborough County (Tampa) gas tax generated about $4.3 million in gross revenues in FY 1986. In Dade County (Miami), each penny generated about $7.7 million in gross revenues.

Legal Issues

Both the voted gas tax and the local option gas tax were legislated by the State to be carried out at the county level. Both are optional taxes. The voted tax requires a referendum, while the local option tax is implemented by a county governing board.

Recent changes in the State legislation governing the local option tax make it possible for a county commission to impose the tax by a simple majority; a tax of 3 cents or more formerly required approval by a majority plus one. In addition, any number of gas tax pennies may now be bonded, and any county which has imposed 5 cents may participatein a program to match State funds in the ratio of 80 to 20, percent for projects on the State highway or county systems or on local roads which would alleviate congestion on State highways.

Political Issues

The voted gas tax has been more difficult to impose as it requires electoral approval. Most of the counties which have adopted this tax successfully are geographically concentrated along a major interstate highway. Therefore, the tax has been largely passed on to tourists.

In the case of Hillsborough County, which has both types of local fuel taxes, the voted gas tax failed the first time it was put before the voters. The

second time it was put on the ballot, a well-funded and highly publicized campaign was mounted to promote and advertise the tax.

Timing

Legislation for the voted gas tax was approved in the early 1970s. It was first utilized in 1980. Local option gas tax legislation was passed in April 1983.

Related Experience

The State of Florida also has two other local transportation taxes. The Charter County Transit System Surtax was authorized in 1976 as a means to help fund Metrorail in Dade County. It is a discretionary sales surtax that may be levied at 20 percent of the general sales tax rate by any of five charter counties which adopted their charter before June 1976. A referendum on the surtax failed in Dade County and as of September, 1986 no county had adopted the tax. The revenues would be used for costs associated with a fixed guideway system.

The Metropolitan Transportation Authority (MTA) tax was enabled in 1985. An MTA may be created in any urbanized area with over 200,000 residents which is comprised of counties which have levied at least 6 centss of the local option gas tax. Nine areas in the State, comprising 14 counties, met these requirements as of September, 1986. An MTA has the power to levy gasoline or property taxes to fund arterial highway needs within its area. Before a county may levy taxes through an MTA, a plan for revenue expenditure must be approved by countywide referendums in each participating county. In the three counties comprising the Orlando area, referendums on the MTA tax were recently rejected four to one.

The charter county transit system surtax also requires countywide approval.

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References

Financing Urban Transportation Improvements, Report 3: A Guide to Alternative Financing Mechanisms for Urban Highways, by Rice Center, June, 1984.

Florida's Transportation Revenue Sources, by the Florida Department of Transportation, Division of Planning and Programming, Bureau of Policy Planning, July, 1986.

Sales Tax

Overview

Maricopa County, Arizona *(1984 pop. 1,714,809)* - A new 1/2 cent sales (transportation excise) tax has been established in the county, the revenues of which will be used to provide additional funding for the construction of freeways, expressways, and parkways and the continued development of public transportation.

The Phoenix metropolitan area greatly needs to expand its freeway system. The area now ranks 61st in freeway miles-per-capita of 62 metropolitan areas with more than 400,000 people. Compared to 18 metropolitan areas with one to two million people, the area is last in freeway miles, freeways-per-capita, and the percentage of traffic moved on freeways. Other existing sources of funding for needed construction were insufficient to address the problem.

Under a new law passed by the Arizona legislature in 1985, a referendum was held to establish an additional 1/2 percent sales tax in Maricopa County which could only be used to:

- Accumulate funds to be held in trust to design, acquire rights-of-way, and to construct controlled-access highways ($5.8 billion over 20 years).
- Service bonds issued to design, to finance acquisition of rights-of-way, and to construct controlled-access highways identified in the Regional Mobility Plan.
- Develop a regional public transportation system plan for Maricopa County ($8 million).
- Increase funding to operate a regional bus system, dial-a-ride, and other special transportation services for Maricopa County ($5 million per year, increased with inflation).

Results

The new tax was approved by the voters. The Transportation Excise Tax took effect on January 1, 1986 and shall be in effect for a period of 20 years after that date.

The tax is projected to generate $5.8 billion over 20 years. In 1986, $99 million will be generated. With tax revenues increasing over the years due to population and economic growth and inflation this figure is expected to increase to $618 million by 2005.

When the planned construction is completed, there will be 233.5 new freeway miles and expressway corridors added to the existing 70.5 miles and 16 miles presently under construction.

A new regional transit authority has been established to oversee rapid transit planning and to oversee expenditure of the $5 million yearly allocation to augment existing public transportation service.

Legal Issues

State legislation was required to establish the new tax. The new law required in turn that the tax be approved by the voters of each county in which it is to be collected.

The transportation excise tax money is collected by the State Department of Revenue, placed in a new fund to be held by the State Treasurer, and called the Maricopa County Regional Area Road Fund. It may be used only for the specified transportation purposes enumerated in the enabling legislation. Food and medicine are exempted from the sales tax.

Construction of the freeways, expressways, and parkways will be supervised by the Arizona Department of Transportation.

Political Issues

A pro-freeway attitude and the willingness to pay for roadways developed over the years as a reaction to increasing frustration with worsening traffic congestion. Support for an additional tax originated in the local business community which was instrumental in securing State enabling legislation.

A coalition made up of citizens and community leaders with support from the regional planning agency and local governmental leaders, led the campaign for the tax. Two groups opposed the initiative, one opposing any form of new taxation and denying the need for such, the other supporting new freeways but opposing the tax. The proposal passed in the election with approximately 72 percent in favor.

Timing

The enabling legislation for the new tax was passed in May of 1985. The Maricopa Association of Governments (MAG) adopted the Regional Transportation Plan for Maricopa County in July 1985. A resolution calling for the election was passed by the Board of Supervisors of Maricopa County, Arizona in August, 1985. The election was held on October 8, 1985. The new tax went into effect on January 1, 1986.

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Beer Tax

Overview

Birmingham, Alabama *(Jefferson County 1984 pop. 671,786)* - In April, 1982 a statewide beer tax was established in Alabama. Prior to the bill, each county had set its own beer tax; under the bill, the tax was levied at 1.625 cents for each four fluid ounces of beer. It is collected by the assessing authority of the county or municipality. Each county divides its portion of revenues from this tax differently, according to the recommendations of the county delegation to the State house and senate. In Jefferson County, three funds were established to receive different portions of the revenues. The third fund (Fund C), which represents 3/9ths of the tax received (after 2 percent is removed for county administrative costs), is distributed in part to the Birmingham-Jefferson County Transit Authority. The Authority receives 50 percent of Fund C or $2 million dollars annually, whichever is greater.

Results

Revenues from the tax represent 17.8 percent of the Authority's budget in each of the years since the tax was dedicated to transit. Funds have been used for capital expenditures.

Legal Issues

Subsequent to the bill's passage, several counties with beer taxes that had been higher than 1.625 cents brought a lawsuit in State supreme court. Other cities have challenged the beer tax as unconstitutional but it has withstood this challenge in court.

Political Issues

No political issues were reported.

Timing

The bill was proposed in the fall of 1981 as an add-on, and passed in April, 1982.

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Payroll Tax

Overview

Portland, Oregon *(1984 pop. 1,340,940)* - The State of Oregon has authorized local transit agencies to use a payroll tax to generate revenue. Since 1970, the Tri-County Metropolitan Transportation Authority has imposed a tax on employer payrolls, and since 1982, a tax on the earnings of self-employed people within the district. The State government pays an amount in lieu of the tax on the payroll of its employees working in the district. The State legislature permits the district to adjust the tax rate as long as the rate does not exceed the statutory ceiling of 0.6 percent.

Taxes are paid quarterly, by employers within the transit districts. The State Department of Revenues collects and administers the tax. All revenues, after handling costs incurred by the State are deducted are forwarded to the transit district.

Results

In FY 1985, the tax generated a net of $41.1 million or 60 percent of the system's operating budget. In FY 1986, the tax generated $44 million, or 65 percent of the system's operating budget. The State government contribution in lieu of a payroll tax on government employees generated $1.2 million in 1986, while the payroll tax on self-employed individuals yielded $3.4 million.

Legal Issues

The Oregon legislature enacted a State statute, ORS #267, in January, 1970 which enabled the creation of the Tri-County Metropolitan Transportation Authority. The legislation also granted taxing authority to Tri-Met, including the option for Tri-Met to impose a payroll tax of up to 0.6 percent. By law, government organizations are exempt from paying the tax.

Political Issues

After the tax became law, it was challenged in court, but was found to be constitutional.

Timing

Tri-Met has used the tax since its authorization by the State in 1970, and since 1982 Tri-Met has also taxed the earnings of self-employed people within its area.

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Related Experience

Eugene, Oregon *(1984 pop. 101,602)* - This jurisdiction has also taken advantage of Oregon's payroll tax to support public transportation. Lane County Mass Transit District imposes a 0.50 percent tax on the total payroll of local businesses. Every year the tax rate is evaluated to meet budgetary requirements. In FY 1985-86, Eugene received $4.84 million, or 62 percent of its general fund revenues.

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References

Financing Transit: Alternatives for Local Government, prepared by the Institute of Public Administration for the U. S. Department of Transportation, Urban Mass Transportation Administration, Office of the Secretary, Washington, D.C., 1979.

Tax Increment Financing

Overview

Prince George's County, Maryland *(1984 pop. 675,571)* - Since 1979, ten Tax Increment Districts have been formed in Prince George's County, Maryland. The districts were established for the purpose of funding public improvements within each district. A base year assessed property value was determined, and taxes collected on any increases in property values above the base year value are dedicated to the needed improvements. The additional real property taxes received from the non-residential property in these districts was exempt from a local property tax cap imposed from 1980 through 1985.

The ten districts consist of industrial, commercial or residential areas expected to undergo a large amount of development or redevelopment. The benefit of TIF is that funds can be earmarked for particular improvements such as transportation, to assure that needed infrastructure expansion takes place.

Seven capital projects are underway in Prince George's County for FY 1987, worth a total of $1.1 million. The current year's levy is estimated at $8 million, and there is an $11.5 million balance from prior years. The majority of the TIF fund, or $16.2 million, will be transferred to the general fund out of which debt payments will be made for current and future capital projects.

Results

The Districts have benefitted from the $14 million in revenues generated. Some of the 72 completed projects include Amtrak and Metro parking garages, a pedestrian overpass, traffic signals, and various road projects. Revenues from each district ranged from $36,675 to $2.5 million from 1981 to 1984. Districts with steady growth will continue to benefit from TIF expenditures. However, districts with slow growth and small TIF contributions will probably be dropped.

Legal Issues

The Tax Increment Financing Act was passed during the 1980 Session of the State General Assembly. The Act allows local governments to designate certain areas of the county as Tax Increment Districts. In Prince George's County the effect of TIF was to allow capital projects to be financed at a time when other funding sources were unavailable. Now that funding limitations have been modified, there will be a return of general fund borrowing as a financing method. It is easier to float government funding bonds because they have fewer restrictions.

The enabling legislation spells out two methods for financing.

1. The annual increment of increased tax revenues is set aside in a special fund for improvements in the tax increment district.

2. The anticipated amount of tax increase is pledged to repay bonds sold by the public body to finance improvements.

Political Issues

No political problems were reported.

Timing The first TIFD's were created in 1979. Selected TIF funds will be reviewed during FY 1987 for viability.

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Lottery

Overview

State of Pennsylvania *(1984 pop. 11,900,222)* - In 1972, the Pennsylvania legislature authorized a statewide lottery to benefit senior citizens. The lottery revenues were dedicated to programs by the State Department of Aging, the Department of Transportation, and the Department of Revenue.

The lottery law stipulates that 50 percent of the proceeds be returned to the players in the form of prizes. The remaining funds are to be appropriated annually to two transit and two nontransit programs, all for senior citizens. Funding which actually goes to transit represents 8 to 12 percent of net proceeds from the lottery. The Department of Transportation also offers a 75 percent discount to senior citizens participating in a shared ride, advance reservation service provided through private taxicab contractors. The advance reservation (24 hours) requirement allows for multi-person scheduling and the use of vans and small buses. The service is directed primarily to rural customers.

Programs offered through the Department of Revenue include "Property Tax and Rent Rebate" and a "Senior Citizen Inflation Dividend." Lottery funds are also used by the Department of Aging as matching funds for federal grants. In addition, the Department uses lottery funds to subsidize drug prescriptions.

Operating the Pennsylvania lottery is a complex business which includes marketing; security; printing, packaging and distributing tickets; sales; and developing rules and regulations to conduct each game; and payment of prizes. Two functions are considered to be essential to the success of the lottery: (1) given the potential for fraudulent practices, extensive security procedures and measures are needed to guarantee the integrity of all lottery games; (2) marketing efforts are needed to increase the number of licensed sales locations and to promote ticket sales. Total costs of running a lottery have run as high as $35 million in fiscal year 1984-85.

Results

The lottery has generated significant revenues for the State of Pennsylvania. In 1985-86, gross ticket sales were $1.32 billion, of which $733 million were net proceeds. Transit programs for senior citizens received $106 million of these funds. The remaining net proceeds were used for other specific programs for senior citizens, such as property tax, rent rebates, and inflation.

Legal Issues

In 1971, the State legislature passed a law (Act No. 91, the Laws of Pennsylvania, Session of 1971), authorizing the establishment of a statewide lottery. The law created a Division of the State Lottery within the Department of Revenue and gave it a $1 million budget to establish the lottery. The law specified that the lottery receipts would pay for payment of prizes, for payment of costs of operation and administration of the lottery, and for subsidy of the senior citizen programs. The law was amended in 1980 and 1981.

Political Issues

In general, lotteries are controversial sources of revenue. In Pennsylvania, the law was enacted after a long period of debate. Critics of the lottery pointed to the sins of gambling, the opportunities for corruption and the high rate of participation by the poor. The compromise was to use lottery proceeds to subsidize senior citizens programs.

Timing

After the lottery law was passed in 1971, it took the Bureau of State Lotteries approximately six months to establish the procedures for the games, the rewards, and the distribution network of retailers who sell lottery tickets. The senior citizen programs first received lottery funds in FY 1972-73.

Over the past ten years, as the public has become more familiar with the lottery, proceeds allocated to the programs have increased significantly.

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References

The Pennsylvania Lottery Annual Report, 1980-1981, by the Commonwealth of Pennsylvania, Department of Revenue, Harrisburg, Pennsylvania, 1981.

Related Experience

State of Arizona *(1984 pop. 3,052,983)* - The Arizona lottery was established as a result of a citizen's initiative, passed on November 4, 1980. The proceeds of the lottery were originally slated to be placed in the General Revenue Fund. However, in July, 1981, the legislature earmarked $190 million of lottery revenues over the next ten years for the Local Transportation Assistance Fund. In 1991, the legislature will reconsider the issue of allocation of lottery funds.

The funds are allocated to each incorporated city and town in the State on the basis of population. The legislature has committed itself to appropriate sufficient funds out of other revenues if necessary, to meet a target distribution of $23 million a year, but this has not been necessary. For cities over 300,000, namely Tucson and Phoenix, the funds must be spent on mass transit, as capital or operating assistance. Cities and towns under 300,000 may use their funds for any transportation purpose, including road maintenance. Each city or town is guaranteed to receive a minimum of $10,000 a year.

Results

In FY 1984-85, a total of $72 million was generated by lottery sales; the required $23 million was distributed. In 1986, the target of $23 million was

also reached. The city of Tucson received $3.6 million and the city of Phoenix, $8.4 million.

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II. Assessments

A special benefit assessment district is a fee on properties within a district to pay for all or a part of specific improvements made within that district. The boundaries of the district are defined to include all properties benefitting from the improvement. With special assessments benefit from the development of improvements pay for those improvements commensurate with the value of the benefits to be realized. Assessments are levied as one-time or recurring liens by city councils or special districts. Revenues are typically used to retire bonds issued to finance construction of capital improvements; but may also be used to fund maintenance or operating costs.

Special State enabling legislation usually is required to levy special assessments.

- Assessment districts have been used for highway improvements in **Arapahoe County, Colorado** and **Pleasanton, California**.

- Maintenance funds for a transit mall in **Denver**, and a portion of the construction funds for the **Los Angeles** Metro Rail system and the **Miami** Metromover system were also raised by assessment districts.

Metropolitan Districts

Overview

Arapahoe County, Colorado *(1984 pop. 361,744)* - The first major, privately funded highway project in the Denver region, the Yosemite Street overpass, was financed by a coalition of metropolitan districts.

Metro districts are quasi-public entities that may issue bonds for capital improvements supported by property tax levies. This funding is considered to be from the private sector, because these metro districts consist almost entirely of commercial property. The Joint Southeast Public Improvement Association (JSPIA), includes eight metro districts and 2,663 acres and will ultimately include over 50 million square feet of office, research, and commercial development.

When the JSPIA was formed in 1982, a list of six highway construction projects and four improvement projects were adopted. The total cost of these improvements is being shared by JSPIA, the County, and the State Department of Highways.

Funds for the JSPIA portion ($20.5 million) are collected from an ad valorem tax levied above and beyond the County's taxes, at a rate of 22 to 45 mils. Each district shares the total JSPIA portion of the projects according to the proportion of the districts assessed valuation to the total valuation of all the member districts. This proportion is adjusted annually. The part of these revenues not used for JSPIA projects is spent by each district on internal improvements such as drainage facilities and local roads.

Results

All of JSPIA's projects have been completed or are under construction. One particular project, the Yosemite Street overpass, serves the Greenwood Plaza South development, and its construction was made a condition of zoning approval for the development. The developer formed the Greenwood South Metro district, and in cooperation with the Greenwood District, constructed the overpass at an estimated cost of $4.5 million.

The Colorado Department of Highways obtained completion of projects that had long remained dormant, at a cost of only $2.9 million to the department. Completion of the overpass is estimated to divert 8,000 vehicles per day from an overloaded interchange.

The developers involved obtained approval to continue medium-to-high density development and helped to relieve a major traffic bottleneck. The JSPIA also wished to establish credibility with the State and to lay the groundwork for future jointly-funded projects in the corridor which benefit both developers and the general public.

Because the metro districts can use property taxes to fund bond issues, front-end costs required by the private sector to implement infrastructure improvements are reduced, and low-interest long-term payments are provided for.

Legal Issues

Metropolitan districts are authorized under Colorado's Special District Act, Title 32, adopted as a general statute in 1981. They provide various infrastructure services.

In order to form a special district, petitioners must first submit a service plan to the board of county commissioners. After the plan is approved and a petition is presented to the district court, the court holds a public hearing and an election. Consolidation of districts is also processed through the court.

Metro districts have many of the same powers as municipalities, such as issuing bonds, setting rates, and acquiring property; they also have special powers of eminent domain, providing public transportation, levying and collecting ad valorem taxes, issuing negotiable coupon bonds, and issuing tax-exempt revenue bonds.

While the funds used for improvements are from tax receipts, the taxes are levied by the private sector on the private sector.

Political Issues

No political problems were reported.

Timing

In January 1981, the Greenwood Plaza South rezoning plan was submitted, and in June it was approved. The formation of JSPIA was announced in April, 1982. Two months later the construction contract was awarded and the final design approved by the Federal Highway Administration. Projects are ongoing.

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References

The Use of Private Funds for Highway Improvements, prepared by Kimley-Horn and Associates, Inc., May 1983.

Improvement District

Overview

Pleasanton, California *(1984 pop. 38,394)* - An improvement district has been formed in Pleasanton, California, to finance major traffic improvements in the northern portion of the city. Created with the support and consent of area developers, the district assesses a fee based on benefit from improvements. Only commercial and industrial properties are included in the assessment area, which is bounded on two sides by interstate highways. The District includes about 949 (net) acres located in North Pleasanton. Land parcels with improvements are receiving approximately 20 percent of the total assessment.

Pleasanton, near San Francisco, is experiencing significant office, commercial, high technology, and light industrial development, creating a need for new and/or improved freeway interchanges, ramps, additional lanes, and major thoroughfare access roads.

The property in the North Pleasanton Improvement District (NPID) and surrounding areas is also subject to additional assessments for other public improvements required for the development of the property. Nearly all of the undeveloped property in the District is proposed to be developed over the next ten years.

There are several business parks and commercial centers at varying stages of development located within the boundaries of the District. Hacienda Business Park, the largest development in the City, is a mixed-use park which is being co-developed by The Prudential Insurance Company of America and Callahan Pentz Properties, Pleasanton. Hacienda includes approximately 695 (net) acres of land. Upon completion in about 20 years, it is expected to provide approximately 12 million gross square feet of office, commercial, and industrial space, and to have a daytime population in 2010 of 35,000. Other major business parks include the Meyer Center, the Pleasanton Park, the Stoneridge Corporate Plaza, and the Stoneridge Regional Shopping Center.

The total amount being raised by the NPID for transportation improvements is about $142 million, which includes $49 million for local roadways, and $93 million for highways. An additional $9 million will be raised for fire protection and water supply improvements. Prudential and Callahan Pentz will be responsible for the largest portion of the assessments. Prudential will receive an assessment of about $88 million, or 58 percent of the total, and Callahan Pentz will receive an assessment of about $21 million, or 14 percent of the total. The assessments are calculated on the basis of net acres; both developed and undeveloped land will be assessed for approximately $150,000 per acre.

The District's projects are in three phases, the first of which are roadway improvements costing about $49 million. Prior to the establishment of the NPID, Prudential, Callahan Pentz, and other developers had already spent over $25 million on roadway improvements, for which they were credited through a redistribution of assessments for the $24 million bond issue which

funded the remainder of Phase I. Nearly one-third of the current 53 signals in Pleasanton have been funded by the NPID; and through NPID, North Pleasanton developers paid for the installation of a master computer at City Hall, the expansion of the building to accommodate it, a direct wire connection for 13.3 miles of interconnect throughout the City, and provided capacity in the master computer to control 128 intersections. Traffic engineers and consultants for the developers provided the feasibility study, specifications, design, initial timing, and ongoing signal timing at no cost to the City.

During Phases II and III, the NPID plans to fund 100 percent of the cost of improvements on two interchanges and a majority percent of the costs of two other interchanges. The NPID will also fund the construction of auxiliary lanes on both I-580 and I-680 adjacent to development in north Pleasanton. Auxiliary lanes will be provided on both sides of the freeways for approximately eight lane-miles.

Results

The city of Pleasanton is now undertaking the preparation of a project report and an Environmental Assessment (EA) for the interchanges and auxiliary lanes. As a result of local efforts spearheaded by the City and agreed to by the California Department of Transportation (Caltrans) and the Federal Highway Administration, the usual four- to five-year lead time from the beginning of an EA to the beginning of construction of a project is expected to be reduced to three years.

Proceeds from the initial sale of $24 million in Assessment District bonds were used to complete the financing of Phase I, which is nearly complete. It is expected that additional improvement bonds will be issued on a phased basis over the next ten years to finance the freeway improvements. These bonds create a lien against each property within the District for that property's proportionate share of the improvements.

Legal Issues

A State statute dating from 1913 allows cities to establish special districts to support infrastructure improvements by issuing tax exempt bonds. To establish the District, property owners petitioned the City, which performed a preliminary engineering study and calculated assessments. At a public hearing only one company protested its assessment.

Political Issues

No political problems were reported during the first phase of the NPID. Area developers supported the District as a fair method of assessing for the local impact of new development. However, in developing Phases II and III, problems have been encountered in determining the source of the remaining funds needed to construct two interchange improvements. Caltrans has decided not to commit State funds for these projects, and is encouraging several of the communities surrounding the District to contribute to the improvements because the benefits are regional in scope. Coordination with these communities is slowing the funding and planning processes on the projects.

Timing

The first bonds were issued in October, 1985. The remainder will be issued in at least two stages over the next ten years. Phase I of the District,

including the signalization projects, is nearly complete. Phase II, which includes design and engineering for the highway projects, and Phase III, which is the construction portion of those improvements, will extend over the next ten years.

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Transit Assessment District

Overview

Denver, Colorado *(1984 pop. 504,588)* - In October, 1982, the Rapid Transit District in Denver, Colorado opened a downtown transit mall which is located on 16th Street and covers a 14-block area from Broadway to Blake Street. The mall runs through the center of Denver and is bordered by a mix of retail, highrise office, and some residential development. The mall offers continuous free transit service via specially built shuttle vehicles.

Maintenance of the 14-block mall is being funded through a special assessment charged to property owners immediately adjacent to the mall corridor. The Assessment District and its funding mechanism are unusual in that:

- o Assessments are based on the amount of land area included in the individual property, rather than on the square feet of improvements mde to the land.
- o Assessment rates vary according to distance from the mall and land use. There are ten categories of properties that take into account differences in distance from the mall and zoning limitations. Rates vary from a high of 45 cents per square foot for land adjacent to the mall to a low of 5 cents per square foot.
- o Funds raised by the District are not used for construction costs, which is more common, but rather for operations.

Results

The assessment and maintenance is being supervised by Downtown Denver, Inc. (DDI), which represents a group of downtown businesses. The assessment covers maintenance services including administration; clean-up and snow removal; maintenance of plants and flowers; electrical/plumbing repair and replacement; capital repair and maintenance; security; and supplemental water and electrical service.

The DDI collected $1.67 million in 1984 through special assessments for maintenance of the Denver transit mall.

The first formula, which assessed property owners on the basis of expected increases in property values attributable to the mall, proved to be unworkable. Under the current formula, rates are adjusted annually as needed to cover the District's budget. In 1984, the assessment rates were increased by 6 percent.

Legal Issues

Enabling legislation for the creation of the special assessment district was passed by the Denver voters in 1978. The legislation (1978 Charter Revisions, Section A2.29) provides two methods through which a district can be legally constituted: (1) if 35 percent of the property owners agree to its creation or, (2) if the Denver Director of Public Works establishes the district by mandate. The latter was the approach actually used. DDI had difficulty with the first approach due to its inability to locate an adequate number of "property owners," defined by the enabling legislation as those who have authority to sell land within the district.

The enabling legislation which provides the authority for the creation of the special district and assessment collection expires ten years after its establishment. Accordingly, DDI has signed a ten-year contract with the City of Denver and the "Transit Mall Maintenance District" to oversee the maintenance of the mall. The contract will be reviewed annually to determine both the adequacy of revenues derived from the special assessment for covering maintenance requirements, and the fairness of the formula utilized to derive income.

Political Issues

The implementation of the assessment district required skill in negotiation backed up by the ability to follow through on the terms agreed upon in the negotiation process. DDI was in a favorable position because of its stature as a widely supported business organization, its ability to hire consultants to provide needed technical material, and its desire to gain control over mall maintenance, management, and development.

Negotiations by DDI were conducted with three different groups: the downtown property owners, to agree on the boundaries of the assessment district; the city, to agree on the maintenance contract; and the RTD, to arrange provision of bus service and to agree on the final design of the mall.

The greatest conflict occurred over the definition of the district boundaries by the original independent appraiser. In the original concept, two blocks on each side of the mall were to be included in the District. However, the appraiser recommended that benefits would extend for only one block in each direction, and so the District was redefined. A majority of property owners within the one block District objected to the smaller district, complaining that benefits actually would be more widespread and that the limited district would place the financial burden unfairly on a small number of property owners. Fearing the assessment district plan would fall through, DDI persuaded 7 percent of the dissenting property owners to reverse their decision, allowing the District to be defined as originally planned. In return for the support, DDI agreed to redefine the Dddistrict's boundaries for the second year to include three blocks northeast and two blocks southwest of the mall. The new, broader district increased the base from about 200 property owners to over 850 property owners; the new district was supported by 98 percent of the property owners.

Timing

After Denver voters approved the ballot measure, it took one and a half years to complete the hearings required to establish the District. During that time, the District was contested by property owners as mentioned above. Construction of the mall was completed in October, 1982, at which time DDI began to provide maintenance service.

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Special Benefit Assessment District

Overview

Los Angeles, California *(1984 pop. 7,901,220)* - California legislation (S.B. 1238) which allows special benefit assessment districts to be set up around planned Metro Rail rapid transit stations was enacted in 1983. The bill amends the Public Utilities Code to allow assessment districts for the construction, maintenance, and operation of transit. (The Code already allows benefit assessment districts for other types of infrastructure, such as fire protection districts and water districts.) Undeveloped land will be assessed according to parcel size and improved land according to total floor area.

The law allows Southern California Rapid Transit District (SCRTD) to levy assessments on property owners within these districts in direct proportion to the benefit their property derives from proximity to Metro Rail. One of the key aspects of the law is that it enables the District to consider issuing bonds based on anticipated revenue to help pay for the project's construction, operation, and maintenance costs.

In January, 1985, the Benefit Assessment Task Force established by SCRTD formally recommended that two benefit assessment districts be established for the initial segment of 4.4 miles (MOS-1): one for the Wilshire/Alvarado station area and one for the Central Business District (CBD) station area.

The district boundaries will be established based on walking distances of 1/2 mile for the CBD and approximately 1/3 mile for the Wilshire District. Assessment rates will be applied uniformly through an entire district. Offices and other commercial improvements; retail stores; hotels; apartment hotels; motels; labor-intensive, light industrial areas; and income-producing residences will be assessed. The initial assessment rate will be set at 30 cents per square foot, with a maximum allowable rate of 42 cents. The SCRTD will review the rates at least every two years to determine whether they should be adjusted as required by cash flow needs or for changes in the amount of assessable square feet in the District.

The assessment structure assesses either the improvement or the parcel of land on which the improvement is sited. Improvements such as offices, commercial, retail stores, hotels, and motels are to be assessed for the square footage of the improvements or the square footage of the parcel whichever is greater.

Results

The first phase of Metro Rail will cost $1.25 billion to construct. The Federal government is being asked to pay $695.9 million, or 56 percent, and has signed its commitment to MOS-1. The State of California will provide $213.1 million, or 17 percent. The 1/2 cent sales tax in Los Angeles County dedicated for transit will contribute $176.6 million, or 14.1 percent; and the City of Los Angeles will provide $34 million, or 2.7 percent. When these contributions are totaled, some $130.3 million in additional funds

(approximately 10.4 percent of the MOS-1 construction cost) are needed for the initial 4.4 mile segment, and also to demonstrate to the Federal government that there is strong local commitment to Metro Rail. Assessment revenues will be used to pay for and finance these $130.3 million in construction costs.

A new task force will be formed to consider benefit assessment districts for future segments of the Metro Rail system, which are planned for each of the system's 18 to 20 stations.

Legal Issues

Senate Bill 1238 amends the California Public Utilities Code to allow special benefit assessment districts to be used for mass transit. Public hearings were held by the SCRTD board and the City Council before the resolutions were passed by both bodies.

Political Issues

At the SCRTD public hearing there was considerable discussion of whether residential properties should be assessed. The Task Force had recommended that income-producing residential properties be assessed. However, the City Council decided to not assess properties with residential improvements except for hotels and motels.

Timing

S.B. 1238 became law in October, 1983. The Benefit Assessment Task Force was formed in July, 1984, and made its recommendations to the SCRTD board in January, 1985. After a public hearing, the SCRTD Board approved a resolution to proceed with the establishment of the two benefit assessment districts, in February, 1985. The Los Angeles City Council amended and approved the SCRTD resolution on May 31, 1985. On July 11, 1985, the SCRTD board adopted the resolution creating the two districts.

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Special Benefit Assessment District

Overview

Miami, Florida *(1984 pop. 1,705,983)* - A special assessment district has been formed in downtown Miami. Its purpose is to generate $20 million, which was established as the contribution from the private sector toward the capital costs of implementing Miami's Metromover project. The project will cost approximately $148.2 million. The assessment district will replenish the General Fund for an amount equivalent to a pro-rata share of debt service on bonds at a fixed rate over a 15 year perod. Bonds were backed by county utility service tax revenues. Property owners being assessed in the area are expected to benefit from the increased accessibility to their properties increased sales and rents.

Results

On November 1, 1984, Metropolitan Dade County began levying and collecting this special assessment on approximately 700 properties within the service area of the Metromover. Based on net leasable square footage, the special assessment is adjusted annually to account for new development. The rate for the first year was 18 cents per net leasable square foot, based on the January, 1984 property tax rate. At the end of 15 years, levies on properties will have raised an amount sufficient to repay approximately $7 million of debt service plus the $20 million of capital contributed toward the funding of Metromover by the private sector. Churches and Federal buildings are exempt from this charge. The district included over 16.78 million square feet of net leasable space when assessments were first levied.

Legal Issues

The Dade County Manager commissioned a group of representatives from private and public agencies to study the Metromover's financing. They recommended the assessment district to the Board of County Commissioners, which passed an enabling ordinance in 1983. As the assessment basis is not ad valorem, no referendum was required. The Dade County Code limits the term of the special assessment district to 15 years. The County Board will approve the assessment ratio yearly, based on annual property appraisals. Assessments are billed and collected as part of the tax collection process. Tax certificates are sold on properties whose assessments are delinquent.

Political Issues

During the public hearings, some opposition arose from property owners with under-leased buildings and owners who could not pass on increased taxes to their tenants because of terms of their contracts.

Timing

The Metromover project was initiated in September, 1982. Enabling legislation for the assessment district was passed in July, 1983. Bonds were issued in September, 1984 and will be fully retired 15 years later. The Metromover opened in 1986.

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III. Fees

Fees are distinguished from taxes in that taxes are usually levied on the general population, while fees are used to segment a portion of the population which is causing a significant impact on transportation infrastructure, or which is particularly benefitting from transportation improvements. Fees are becoming increasingly popular and are receiving growing attention, especially those imposed on developers to mitigate the impact of new projects on roads and transit services. These impact fees have been justified on grounds that new development exacerbates peak-hour traffic or transit problems and thus, developers should help to mitigate actual and potential problems. The impact fees fall into two general categories. The requirements may be specifically set forth in local ordinances as a condition for obtaining building or occupancy permits. Requirements may also be negotiated by the developer and the local zoning authority when a rezoning request is made. In the case of negotiated requirements, local governments withhold permits or approvals until commitments, payments, or in-kind improvements have been made. Cases examining the latter technique are found in Chapter IV.

Fees may be assessed on the basis of square feet of development, units being constructed, or peak hour vehicle trips generated. They may apply to a whole city or county, or only a specific area, and may raise funds for either road or transit improvements. Revenues are usually spent for improvements in the area in which they were generated. Fees require a high degree of public/private cooperation. In some cases, the private sector fully supports the use of impact fees as an equitable method of financing necessary improvements. In others, however, legal challenges to impact fee ordinances have affected the ability of these ordinances to mitigate transportation or mobility problems.

The examples of impact fees contained in this section explore six highway-related projects and one involving transit facilities.

- Of particular interest is the ordinance in **Palm Beach County, Florida**, which assesses a fee for impacts on road facilities based on trips generated by the development. The ordinance has served as a model for other areas in Florida.

- **Upper Merion Township, Pennsylvania, Los Angeles,** and **Orange County, California** have adopted impact fee programs allocating capital improvement costs by peak period traffic generation.

- **San Diego** adopted a facilities benefit assessment program charging developers a fee for expanding the city's infrastructure based on the number of forecasted building units.

- The city of **Farmer's Branch,** north of **Dallas,** established a capital improvement fee per square foot based on a comprehensive city capital improvement plan.

- o **Fort Collins, Colorado** has instituted a Transportation Utility Fee which raises funds citywide for road maintenance. The fee is based on street frontage and traffic generation.

- o The **San Francisco** case is an example of a fee ordinance that dedicates revenues for transit facilities and services.

Fair Share Contribution Ordinance

Overview

Palm Beach County, Florida *(1984 pop. 692,217)* - In 1985, Palm Beach County updated its Fair Share Contribution for Road Improvements Ordinance (Ordinance #85-10) which requires new land development activity to pay a "fair share fee" for reasonably anticipated costs of new roads needed by the development. However, the ordinance clearly States that the impact fees are not to exceed the activity's pro rata share of the actual cost to make the necessary improvements.

The ordinance sets forth a schedule of impact fees which are based on trip generation by type of land use activity, the cost of constructing additional lanes, and the lane capacity. The collected funds are deposited in the trust fund of the designated impact zone, 40 of which are created by the ordinance. The zones are approximately three miles on a side. The funds can be spent only for the following purposes in a particular impact zone: design and construction plan preparation; right-of-way acquisition; construction of new through lanes, turn lanes, bridges, and drainage facilities; purchase and installation of traffic signalization; construction of new curbs and medians; and relocation of utilities to accommodate new roadway construction. The main goal of the ordinance is to raise funds to increase the capacity of roads in the county.

The impact fees are levied at the time the building permit is issued for any new land development activity within the county and municipalities that have adopted the ordinance.

Results

Under this ordinance, each of the 1,000 units of single family houses under 2,000 square feet generates $804, and each unit over 2,000 generates $1,045. A shopping center of 20,000 square feet would generate $53,580 or $2.70 per square foot. A general office building generates 48 cents per square foot or $48,200 for a 100,000-square foot building. The fee schedule is based on the following formulas:

Residential Fair Share Fee: One-half external trips per one lane capacity, multiplied by the cost of constructing one lane for three miles.

Non-residential Fair Share Fee: One-half external trips per one lane capacity, multiplied by the cost of constructing one lane for one mile.

Since collection began in FY 1985, approximately $18 million has been raised for improvements. Over $10 million has been obligated for expenditure in FY 1986.

The ordinance includes different formulas for residential and non-residential traffic generators, because many non-residential trips are "captured" or "diverted" from traffic already on the road. Therefore, the formula for non-residential development requires a fee sufficient to replace capacity of fewer lane-miles than that for residential development.

The ordinance is reviewed annually by the Board of Commissioners to analyze the effects of inflation on the actual costs of roadway construction and to ensure that the fee charged will not exceed the pro rata share for the reasonably anticipated costs.

Legal Issues

Palm Beach County was very careful about designing an ordinance that would be legally defensible. Its legal counsel advised that the following criteria be incorporated in the ordinance to withstand judicial scrutiny: (1) The growth rate of the area must be such that the roads will have to improve in the near future, if the existing level of service is to be maintained; (2) There must be a rational relationship between the traffic impact of the new user on the roads and the necessity to improve the roads because of the impact; (3) A reasonable and definable area of impact must be established and fees earmarked for use within the area; (4) The cost of providing the road improvements must be determined; (5) The money available to provide the needed road improvements must be taken into account; (6) The new users may be required to pay the cost of road improvements only to the extent that their presence necessitates such improvements; (7) The fee cannot exceed the pro rata share of the anticipated costs; (8) The new and old users must share equally in maintaining the original roads.

Despite the effort to design the ordinance in a fair and equitable manner, the ordinance has been challenged twice by the Home Builders Association. Both times, the ordinance was upheld, but fee collection was slowed as a result of the challenges. In addition, some revenues were lost because some original owners liable for the fee have sold their properties and moved away.

Political Issues

The ordinance applies only to developments within unincorporated areas of the county or within incorporated municipalities that have adopted the fair share ordinance. About one-quarter of the muncipalities in the county have adopted the fee. Others have not adopted the ordinance for fear that developers will not accept both the county impact fee and the municipality's existing road improvement requirements. To overcome this concern, the County has agreed to reduce the impact fee by the cost of road improvements required of the developer by the municipality.

Timing

Proposals for the ordinance were under consideration as early as 1978. The original ordinance was adopted in 1979, and was amended in 1981 and 1985. Because of legal challenges, collection was delayed until FY 1985.

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Infrastructure Task Force Summary Report, by the Palm Beach County Department of Engineering and Public Works, 1984.

Highway/Traffic Improvement Fee

Overview

Upper Merion Township, Pennsylvania *(1984 pop. 26,101)* - Upper Merion Township, a suburb northwest of Philadelphia, has adopted a Highway/Traffic Capital Improvement Program to raise funds for needed improvements resulting from increased development. The Capital Improvement Program establishes a mechanism to obtain funds necessary to provide and coordinate roadway and intersection improvements within the Township. In addition, the program identifies current highway and intersection flow problems, establishes a baseline for projected improvements, and provides a continuing generation of funds necessary for the Township to initiate and complete improvement on an "as needed" basis and to accommodate new developments and contributions.

The key feature of the Capital Improvement program is a funding fee formula which uses the total improvement costs and benefits to calculate a "fair share" cost allocation. The costs of constructing needed improvements -- $33.2 million -- was divided by the projected improved peak capacity, yielding a unit cost per peak vehicle trip. The unit cost was divided in half to allow for traffic already on the roads and for other revenue sources. The final unit cost is $933 per peak hour vehicle trip. The fees imposed by the ordinance are calculated by applying the unit improvement cost to the peak hour traffic generated by a project. Traffic generation figures are drawn from the Institute of Transportation Engineers Trip Generation Manual. Fees for a single family residential of 1,000 units will total $93,300 or $933 per dwelling unit, while the fee for a 150,000 square foot office building will be $298,094 or $1.99 per square foot. The fee for a light industrial development of 100,000 square feet would be $111,960 or $1.12 per square foot. The Capital Improvement Fund controlled by the Upper Merion Township Highway/Traffic Authority funds improvements.

Credits or reductions in the fee may be attributed to localized traffic generators which serve a limited area or which draw from traffic already on adjacent streets.

The program allows the fee to be updated annually, but changes are not expected aside from adjustments for inflation. Additional projects can be added to the program needed. In essence, a Township-wide improvement district was created so that the fees could be collected in all areas of new development.

Results

The Township expects to raise the entire $33.2 million needed for improvements caused by new development. Since the fund was established, about $4 million has been collected, and contracts have been signed for about $0.5 million.

Legal Issues

Local ordinances were required to establish the fee and the Fund. The Township created the program and passed the necessary ordinances using existing authority. State legislation followed, using the Township's program as a model. Pennsylvania Senate Bill No. 825 provides for transportation development projects by municipalities and municipal authorities, and allows these entities to create districts for the purposes of planning, financing, and improving transportation facilities. The State legislation has since been amended, changing the review process for the community traffic study and fee structure.

Political Issues

The Township was careful to hold meetings with citizens, members of the business community, and developers while developing the Capital Improvement Program. After the initial State legislation was passed, developers, bankers, and other individuals pressed for changes which would require a more stringent review of such fees and programs.

Timing

The Township-wide Traffic Study was begun in mid-1984 and completed near the end of the year. The original Highway/Traffic Capital Improvement ordinance was passed in December, 1984, and collections began soon after. The State legislation was passed in August, 1985.

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Coastal Transportation Corridor Ordinance

Overview

Los Angeles, California *(1984 pop. 7,901,220)* - As a result of massive development planned near the Los Angeles International Airport (LAX) by the Howard Hughes Corporation and other large developers, the City of Los Angeles has established the Coastal Transportation Corridor Specific Plan ordinance No. 160394 which regulates development and provides a funding mechanism for implementation of road improvements in the LAX Corridor area. Exemptions to this ordinance include developments which serve neighborhoods such as restaurants.

The LAX Corridor area encompasses 34 square miles in the general South Bay area of Los Angeles County. Within the next ten years, 41 million square feet of new office, commercial, industrial, and residential development has been proposed. Early in 1984, the Southern California Association of Governments (SCAG) established policy advisory and technical advisory committees to study the situation and prepare alternative recommendations. In November, 1984, the L.A. City Council adopted a motion to initiate a Coastal Transportation Corridor Specific Plan. During the plan's preparation, the council imposed interim restrictions prohibiting issuance of building permits for commercial and industrial development within the project area unless traffic impacts could be mitigated. Area residents, developers, and governmental agencies were involved in the process which created the ordinance.

The Coastal Transportation Coalition (CTC), is an alliance of business and development interests, and the Coalition for Concerned Communities (CCC) is made up of area residents. The charter members of CTC are Garrett Corporation, Continental Development Corporation, Howard Hughes Development Corporation, the Koll Company, Hughes Aircraft Company, and Playa Vista Corporation. Each has a vested interest in the total development of the corridor. The Playa Vista mixed-use project alone is estimated at build-out to cost $1 billion. According to L.A. DOT, more than $190 million will be committed to public transportation improvements within the corridor. It is expected that the entire amount will be paid for by private developers. The CTC became directly involved with review and comment on the drafting of the ordinance through cooperation with a consulting firm hired by the City of Los Angeles.

The Coastal Corridor ordinance is intended to:

- o regulate land use development and transportation in the area;
- o establish a transportation trust fund to cover costs directly associated with construction of public transportation facilities;
- o provide a funding mechanism for the plan to address transportation needs;

- o establish an impact assessment fee based on the number of trips generated by the development. A one-time fee of $2,010 per p.m. peak hour trip, or the equivalent of $5 per square foot has been levied on development to pay for required transportation facilities in the corridor; and

- o provide developers with opportunities to reduce fees to be paid if they institute trip reduction measures. The rates are derived from trip tables developed in the planning process by the L.A. DOT.

Results

Off-site improvements to be paid just by the developer of the 2.7 million-square foot Howard Hughes Center will total $13.5 million. These improvements include a $5.4 million freeway ramp, a $2 million park buffer zone with approximately $1 million for expansion of an existing ramp, road widening, and a transit center. An additional $50 million are estimated for on-site infrastructure costs.

In other areas $32,000 in Impact Assessment Fees have been collected along with $1.2 million in letters of credit.

Legal Issues

A majority of the fees collected are being appealed to the city council by the developers. The status of these appeals is unknown at this time.

Political Issues

Coordination between developers, the Coastal Transportation Coalition, the Coalition of Concerned Communities, and the city council was considered important in the establishment of the ordinance.

Timing

The Coastal Transportation Corridor Specific Plan Ordinance No. 160394 was passed into law on October, 1985.

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Development Impact Fees

Overview

Orange County, California *(1984 pop. 2,075,758)* - In Orange County, California, the Irvine Company, a major development corporation, has offered to make a number of significant local transportation improvements. The improvements are part of the company's efforts to improve access to its land holdings which amount to 70,000 acres. Projects include improvements on two interstate routes, three new major thoroughfares, and various traffic management improvements on local arterials.

The Irvine Company, together with other area developers, is participating in a recently established development fee program in the southern part of the county. The program is expected to be able to finance about half of the cost of designing and constructing three thoroughfares in new transportation corridors -- Foothill, Eastern, and San Joaquin Hills. The total estimated costs for the three freeways is $857 million. The County and the area developers have reached an agreement for payment of a one-time fee at the time of issuance of building permits, ranging from $1.05 to $1.80 per square foot of office and commercial development and $535 to $1,305 per residential unit. The Orange County Transportation Commission was asked to serve as a facilitator to encourage the affected cities to participate in the program.

Results

Joint Power Agencies (JPAs) consisting of city and county members have been formed in order to implement the fee program on a regional basis and to develop a shared decision-making process to finance, design, and construct the thoroughfares.

Legal Issues

Two out of the 12 cities within the proposed areas of benefit for the three transportation corridors have not joined the newly formed JPAs. These are the city of Laguna Beach and the city of Irvine. Laguna Beach decided not to participate in the program since it is opposed to building the San Joaquin Hills freeway for environmental reasons. The city of Irvine's decision has been delayed due to litigation.

An anti-growth group initiative for a city election in Irvine on the fee was challenged in court by the Builders Industry Association, the Orange County Chamber of Commerce, and the Irvine Chamber of Commerce, on the grounds that the transportation facilities serve regional needs and that such an issue could not be resolved in a local ballot. An appeal to the State Supreme Court is still pending.

Political Issues

Orange County may adopt a fee program only within the unincorporated areas. City and County cooperation is required for successful regional program implementation.

Timing

On April, 1982, the Orange County Board of Supervisors initiated a study of areas of benefit for a potential developer fee program to assist in the financing of the three major thoroughfares. In January, 1984 the Orange County Planning Commission adopted a specific Major Thoroughfare and Bridge Fee Program. In October, 1984 the County Board of Supervisors

adopted a fee program for unincorporated county territory. On June, 1985 representatives of ten cities and the county agreed to support a revised two-zone fee program based on the location of the properties in relation to the transportation facilities and a Joint Powers Agreement. By early spring of 1986 only Laguna Beach had not approved the fee program in the proposed areas of benefit and two JPAs had been formed. The city of Irvine approved the program but is restricted by the pending court action. Irvine is collecting fees from new development but is impounding the funds until the State Supreme Court determines if the initiative is valid..

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Reference

Revised Major Thoroughfare and Bridge Fee Program and Joint Powers Agreements, Orange County Transportation, July, 1985.

Facilities Benefit Assessment Program

Overview

San Diego, California *(1984 pop. 960,452)* - Two developers in North City West, a new community in suburban San Diego, have paid the city of San Diego $3.5 million for realignment and construction of a new bridge that will improve access to I-5 in the vicinity of their projects.

Baldwin and Company and Pardee Development Corporation are in the process of developing 600 commercial acres and 15,000 residential units in the relatively undeveloped area of North City West. The $3.5 million assessment is based on a formula adopted under the Facilities Benefits Assessment program (FBA) described below. Funds from the FBA are used for offsite community improvements such as transportation, parks, water, and sewer systems. FBAs are collected in addition to the conventional subdivision requirements for on-site improvements.

The FBA program provides San Diego with a technique for charging developers a one-time fee for expanding the city's infrastructure to accommodate new growth. The FBA places a fee on all new developers in 14 area communities, small assessment districts with estimated populations of 5,000 to 40,000 which are referred to as "areas of benefit." The communities are defined as the geographic regions in which new construction is likely to occur over the next ten years. The developers in these areas of benefit pay a predetermined fee for each unit they plan to build when they apply for building permits. The fee varies according to the number of units per lot, the type of unit, and the cost of providing the infrastructure deemed necessary to support the development.

The fee schedule is based on a long-range financial plan for each of the 14 communities, relating capital needs and cost. This Infrastructure Development Forecast is completed and updated annually by the city engineering department with the cooperation of the developer. It includes two components: the Development Schedule forecasts the number and type of units to be constructed for each of the next ten years or more, as well as the absorption rate for commercial/industrial land; the Capital Schedule estimates the cost of providing services to these developments in a timely manner. These cost estimates are allocated by a formula relating the number of units that can or could be built on commercial or industrial land at the maximum density for residential land, the level of public services needed by the new population, and the capital expenditures necessary to provide an adequate level of service. With this information, the City can estimate the amount of money that will be needed over the next 10 to 20 years to have the infrastructure in place as the new growth occurs.

Each area of benefit has its funds deposited in a separate account managed by the city manager. Because the funds of the various districts cannot be combined, developers are assured that the fees will be spent on improvements listed in the Capital Schedule. Each year, the City reviews the development schedules to see if construction is taking place as predicted, and evaluates costs, whether there are an adequate number of projects, interest, inflation, rezonings, and park development. If no growth

has occurred, no money will have been collected, and the Capital Schedule will be postponed.

Once infrastructure needs and costs are determined for each category of development -- single or multi-family residential, commercial, or industrial - fees are assigned to each development as building permits are requested. Because the city of San Diego determines needs and costs for each community separately actual fees vary from place to place. Overall, however, fees of $1,500-$2,500 have been assessed for a single family residential unit, $1,000-$1,800 for each unit of a multi-family residential development, $18,000-$27,000 per acre for commercial development, and $5,000 to $11,000 per acre for industrial development.

Results

The City of San Diego has now collected $15 million in assessments from two developers for transportation improvements needed to support those new developments. When all development is completed in North City West, approximately $40 million will have been collected for transportation- and recreation-related improvements in the area.

Legal Issues

The home-rule city council passed the Procedural Ordinance for Financing Public Facilities in Planned Urbanizing Areas (Ordinance No. 0-15318) in 1981. The FBA programs for the three areas of benefit have been challenged in court by a few developers on two grounds: that the FBA is a tax, not an assessment, and therefore is in violation of Proposition 13 -- the State initiative restricting property tax rates; and that the FBA is unequitable, unfairly requiring new developers to pay for improvements needed by older developments. The City argued that the FBA program has been carefully designed to relate the cost of the fee to the special benefits of improvements provided to the new development, so that FBAs are assessments for special benefits received, not general taxes. The City also designed the ordinance to be as equitable as possible by applying FBAs only to residential, commercial, and industrial areas that were undeveloped at the time the ordinance was adopted, and by designing the fee formula to ensure that all new developments pay their pro rata shares of the infrastructure cost.

The City is currently using the FBA schedule as the basis for individual agreements between developers and the City as a condition of map approval for new subdivisions in the areas of benefit. The development agreement, authorized by the State, requires the City to provide the improvements listed in the Capital Schedule in a timely fashion. The FBA has been validated by the California courts as of November, 1984. The State Supreme Court ruled not to hear an appeal from developers and, ipso facto, validated FBA at that level.

Political Issues

The FBA program is the result of several developers' concern that Proposition 13 would severely limit the City's ability to provide the infrastructure needed to support new projects. Recognizing that they would have to assume greater financial responsibility for these costs, they became concerned about fair sharing. Consequently, the developers worked closely with the engineering department on the preparation of the development and capital schedules and the calculation of the FBA. The City estimates that the FBA program has the support of 80 to 90 percent of the developers in the two areas of benefit for which the program has been established (North City West and North University City). A few developers have challenged the program in court, however.

Timing

The ordinance was approved in 1981 after two years of preparation. It takes at least a year to prepare and approve the development and capital schedules.

There is an inherent lag factor in the FBA program, since the funds are not collected until the building permit is issued. Consequently, infrastructure improvements often will not be completed until after the development has been finished. The lag may be even longer if completion rates are lower than were assumed in the development schedule. This possibility is one reason the development and capital schedules are reviewed annually. In addition, the fees are adjusted annually for inflation in order to maintain the purchasing power of the funds, or to account for newly added or deleted projects.

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Capital Improvement Fee

Overview

Farmer's Branch, Texas *(1984 pop. 26,464)* - The City of Farmer's Branch, north of Dallas, adopted two ordinances establishing a ten year capital improvement plan and a Capital Improvement Fee of 50 cents per square foot to be levied against all building areas at or above ground, in the area of the designated "Improvement Area No. 1." The fee went into effect in October, 1984.

The City developed a comprehensive ten year capital improvement plan, including the expansion, maintenance, and upgrading of streets, alleys, traffic control signals, bridges, storm sewers, and drainage facilities and other transportation facilities, in response to the rapid growth experienced in the improvement area. This growth was responsible for an altered pattern of land use that was significantly higher in overall density than the previously planned land uses. The transportation infrastructure was unable to adequately handle increased use and to accommodate proposed additional growth.

As a result of a detailed engineering study, the City's Public Works Department determined the estimated total cost of Capital Improvements over the next ten years at $2 million. With the passing of Ordinance No. 1526, the city council adopted the Capital Improvement Fee of 50 cents per square foot. This fee was the result of dividing the $2 million in capital improvement costs by a projected 4 million square feet of new development and construction over the next ten years.

Payment of the Capital Improvement Fee, either in full or over a ten-year period, must be made prior to issuance of the building permit by the city. Because an earlier ordinance, still in force, requires developers to finance and construct all road improvements needed as a result of new development, a pro rata refunding mechanism exists to recover capital improvement costs that may be greater than the assessed Capital Improvement Fee.

The ordinance calls for a yearly review of the Capital Improvement Plan by the Director of Public Works to determine whether the projected cost of Capital Improvements and the projected total development within the designated area is accurately reflected. A report must be given to city council which may include a recommended adjustment to the Capital Improvement Fee.

Results

Since the enactment of these ordinances there has been no new development. Most developers seem to agree that the ordinances are a fair method for financing road improvements. Several developers would like to see a credit system for roadways considering a similar ordinance for a larger section of land on the east side of town which would include a slightly higher Capital Improvement Fee along with a larger list of capital improvements. This new ordinance might include Improvement Area No. 1 and address several new issues including a credit system.

Legal Issues

Both ordinances carry a penalty, not to exceed $200, for each day a violation exists. Both ordinances clearly state that the policy established in Ordinance No. 1430, which required a developer to construct, have constructed, or finance 100 percent of the cost of all required public improvements that are located within or contiguous to the property, will remain in force and unaffected by these new ordinances.

Political Issues

No political problems were reported.

Timing

Ordinances 1526 and 1528 were passed by the city council of the city of Farmers Branch, Texas, on October 8, 1984.

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Transportation Utility Fee

Overview

Fort Collins, Colorado *(1984 pop. 70,721)* - Fort Collins is a fast growing city about 60 miles north of Denver. The city instituted a Transportation Utility Fee in 1984, to cover the rising costs of road maintenance. The funds generated by the fee are used for crack sealing, patching, surface treatment, and overlay of residential streets. The fee assigns the cost of maintenance to the property that creates the need for street maintenance and benefits from it. This is done on a sliding scale based upon the use of the property, street frontage, and traffic generation.

In 1982, City staff began to examine the specific relationships between street use, cost, and benefit. Variables used in allocating costs to each property include traffic generation and front footage. Street maintenance program costs were first analyzed. These costs were divided by the total assessable front footage, yielding a base rate per front foot. The fee was then proportioned on the basis of traffic generation as determined by developed use of the property, and front footage per property. The result is the following formula:

Front Footage x Base Rate x Traffic Generation Factor = Monthly Fee

Results

The fee is tied to the City's utility billing system, and is billed so that the occupant of the property pays the fee, whether owner or renter, although the owner remains ultimately responsible for payment of the fee. A minimum of 75 cents per month is charged to all properties. The total yield of this assessment is approximately $450,000 each year. The Public Works Department can increase the amount by raising the base rate, subject to the approval of the city council. The Transportation Utility Fee represents a one percent increase in the total utility bill paid by the average resident.

Legal Issues

In April, 1985, a group of churches filed suit against the City claiming that the fee is a tax, and that it was enacted without exemptions for churches and other tax exempt organizations. The plaintiff's complaint also challenges the validity of the fee on various constitutional grounds. The case is still pending.

An appeals process was established for unusual situations or where an error has been made in calculating the fee. A rebate program also exists for people meeting certain age and income guidelines to reduce the impact of utility costs. This is an extension of programs already provided by the City for other utilities.

Political Issues

No political problems were reported.

Timing The enabling ordinance for the Transportation Utility Fee was passed in January, 1984, with the first billing in May, 1984.

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Transit Impact Fee

Overview

San Francisco, California *(1984 pop. 712,753)* - The San Francisco City and County Board of Supervisors in 1981 enacted the Transit Impact Development Fee Ordinance which authorizes the city to collect a one-time fee of $5 per square foot from owners or developers of new downtown office space. The fee must be paid as a condition of obtaining a certificate of occupancy. The proceeds from this fee can be used to pay for the capital and operating costs of additional peak-period public transit services.

The rationale for the fee has been that downtown office development brings additional people into the city whose demand for service creates additional costs for the transit system. For example, the additional peak-period traffic may require San Francisco's Municipal Railway System (MUNI) to acquire new buses, to install new lines, and to hire more personnel to operate and maintain the system. Therefore, it is argued, the new development should pay for the incremental costs of expanding MUNI's capacity to carry passengers generated by additional office use.

The fee is set annually by the Board of Supervisors and is computed at a level so that the proceeds will be sufficient to pay for all capital and operating costs incurred in providing the additional peak-hour services. The fee is expressed in terms of a sum per gross square foot using the following general formula: annual peak-period MUNI person-trips per gross square foot multiplied by the current cost per additional peak-period MUNI person-trip. By ordinance, the fee presently cannot exceed $5.00 per square foot. The proceeds from the fee are held in trust by the city treasurer and distributed according to San Francisco's budgetary process.

The Finance Bureau of the Public Utilities Commission administers the program. It is informed of planned construction or conversion work by the city's Bureau of Building Inspection when a developer files for a building permit. After the developer is notified of the development fee, the Bureau of Finance and the developer agree on the amount of square footage that is subject to the fee. Sometimes this agreement requires detailed review of the architectural plans to ensure that common space is allocated fairly.

Results

Fees are being collected from developers and placed in escrow until current litigation (see below) is settled. As of July, 1986, the Bureau of Finance estimated that 149 applicable projects which have received permits since May, 1981 will produce $75 million in fees for MUNI if the legality of the fee is upheld by the courts.

Developers will benefit as well as MUNI. In the highly dense and desirable downtown district of San Francisco, mobility is essential to the success of any new office development. Expansion of MUNI, financed by development fees, will improve access to the downtown area, where the City Planning Department for several years has been denying developers permission to construct new parking spaces.

Legal Issues

The San Francisco County Board of Supervisors approved the ordinance in May, 1981. The City successfully argued that office development creates more congestion at peak-periods than any other type of development. The ordinance defines the boundaries of the downtown district and requires that the $5 per square foot fee be assessed on "all accessible office space plus ancillary space," such as elevators, lobbies, and other "common space." Hotels, restaurants, and other non-office uses are exempt from the fee. In buildings where hotels and restaurants are mixed with office space, the fee is based on the square footage of the office space plus a proportionate share of the common space that can be assigned to office use.

Litigation has been filed challenging the legality of the Transit Development Fee. The case was heard in State Superior Court in mid-1984 and was decided in the City's favor. This decision was appealed in the Appellate Court in early 1985. Further appeal to the California Supreme Court is anticipated.

Political Issues

The May 1981 ordinance was approved amid political controversy. Opponents of the ordinance objected on the grounds that the fee was a mechanism to control growth and therefore was not in the city's economic interest. Some developers whose projects already were under construction protested that their projects would be taxed unfairly in a retroactive manner.

Timing

The political controversy surrounding the fee proposal delayed approval of the ordinance establishing the $5.00 maximum per square foot development fee in downtown San Francisco. The legal issues are not expected to be settled until 1986 or 1987.

Contact

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References

A Guide to Innovative Financing Mechanisms for Mass Transportation: An Update, prepared by Rice Center, December, 1985.

IV. Negotiated Investments

Negotiated investments include private sector cash contributions or improvements fulfilling public sector requirements, and proffered in return for zoning changes or building permits; and those projects initiated and financed by the private sector which tend to benefit them but are given low public priority. Under the first category, requirements imposed on developers are intended to help mitigate the impact of new projects on traffic levels and roads.

Contributions that result from this technique are often substantial. Four of the cases in this section report transit related improvements and three cases are primarily related to highway projects.

- In **New York City** and **Washington, D.C.** zoning ordinances provide developers an incentive to build functional improvements to transit stations.

- In **Portland, Oregon** the Planning Commission requires that a developer participate in the construction of a transfer station and a park-and-ride lot, in return for a permit for a shopping center.

- **Fairfax County, Virginia** and **Orange County, California** provide two examples where developers have offered to build highway improvements at their own expense in an effort to improve access to their properties, or in order to gain needed zoning changes.

- In **Dallas, Texas**, a developer had to make a variety of significant contributions including highway, transit,and transportation system management improvements in exchange for the City's approval of a planned development district.

Development Bonuses

Overview

New York, New York *(1984 pop. 7,163,702)* - The Midtown Special Zoning Section No. 81-00 et seq of the Zoning Resolution of the City of New York established the Midtown Special District which required developers, as a condition to development, to relocate subway sidewalk entrances inside property lines within the Midtown area. The owner or developer is required to provide an easement to the New York City Transit Authority for transit patrons who will enter/leave the subway station through the building. In addition, the Zoning Resolution gives developers an incentive to build a functional improvement to a nearby or adjoining station. A developer receives up to a 20-floor-to-area ratio bonus if the proposed improvement is accepted by the City Planning Commission.

The City plays no role in actual construction of the improvements; it is the responsibility of the developer. The Metropolitan Transportation Authority (MTA) is the State agency responsible for overseeing the improvements made by developers. The MTA and the City Planning Department review the conceptual plans. Working drawings are submitted to MTA for final approval by appropriate departments.

In the past few years, about 50 percent of the eligible developers have taken advantage of the bonus, improving passenger/pedestrian circulation, access for the elderly and disabled, and aesthetics within subway stations.

At one major development, located at 599 Lexington Ave., between 52nd and 53rd, Boston Properties is creating a new transfer connection facility between two adjoining subway stations, one block apart, on Lexington Ave. This facility will connect the IND Lexington Ave. Station with the 51st Street IRT Station. The transfer passageway traverses the building site and will be maintained by the developer for the life of the building. MTA will put in a new mezzanine at the 52nd Street end of the Interborough Rapid Transit (IRT) Station, construct new platforms, and undertake a modernization program for both stations. The building will be completed in September of 1986 with the transit connections being completed one year later. The developer has committed to work valued at $3.3 million toward the transit connections. The MTA will spend $8.4 million in the development of the 51st Street Station mezzanine connection. At another site at 53rd Street and 3rd Avenue, developer Gerald Hines is constructing an office building and will add an escalator from the Lexington Ave. Station platform to street level at 3rd Ave. The work will be completed in September of 1986 at a cost of $5.25 million.

Results

The MTA estimates that over $125 million in improvements to stations through the zoning resolution have been committed. The requirement that owners/developers move the station entrance inside their property lines has improved pedestrian circulation, increased accessibility, and improved overall aesthetics.

Legal Issues

No legal issues were reported.

Political Issues

While there has been some reluctance by developers who must participate in the subway stairs relocation and who do not elect to quality for the FAR bonus, the development community appears to heartily approve of the subway bonus concept as an appropriate incentive.

Timing

The relevant portions of the Zoning Resolution of the City of New York were enacted in May, 1982.

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System Interface Program

Overview

Washington, D.C. *(1984 pop. 3,429,613)* - In 1969, Washington Metropolitan Area Transit Authority (WMATA) officials adopted a policy entitled Commercial Tie-In with Metro Stations, also referred to as system interface. This program allowed a framework for negotiating the amount of compensation provided by owner/developers whose property values increased due to tie-ins with the Metro system. The WMATA Board policy regarding system interface provides that:

- o Businesses construct entrances at their expense into Metro "free areas" (areas through which a passenger walks before paying a fare),
- o Negotiations occur on a case-by-case basis,
- o Compensation to WMATA occurs where possible,
- o Each request for a connection is submitted to the Board for authorization to negotiate and execute a contract.

The WMATA Board of Directors created a step-by-step procedure controlling system interface projects. The main elements include:

- o Identifying system interface prospects,
- o Undertaking design and financial feasibility studies,
- o Project review by the local jurisdiction,
- o Review of project plan report by the Board of Directors,
- o Board authorization for negotiations,
- o Review and coordination with local jurisdiction, and
- o Final report and recommendation to Board.

Results

Since 1969, seven system-interface projects have been negotiated. WMATA has been successful in trading access rights for capital improvements. In addition, WMATA has been granted property easements which have reduced potential costs.

The Metro Center Station, which was negotiated in July, 1984, resulted in construction and equipment benefits to WMATA in return for two direct pedestrian entrances to Metro mezzanines from Hecht's department store. The total project cost $1.6 million. In 1972, the Woodward and Lothrop Department store saved WMATA $250,000 in design and construction costs for a passageway between the METRO concourse and the store. WMATA provided easements 50% of fair market value, saving an additional $265,000.

Legal Issues

The WMATA Board is empowered to negotiate with developers for projects. No arrangement is made by WMATA without final coordination and endorsement of local officials, who must review the project from the standpoint of its impacts on circulation patterns, utilities, and the like.

Political Issues

In 1982 the WMATA Board re-evaluated the system interface policy, in response to requests that they restructure the interface charges so that they would be paid to local jurisdictions instead of being paid into a fund for system-wide operations. The Board decided to retain the policy in its original form, while requiring a procedure to be followed in future projects.

Timing

The Interface policy was started in 1969, and the first agreement was negotiated in 1970. There is considerable variance in the length of time between negotiation and completion of the projects.

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Transfer Center Investment

Overview

Portland, Oregon *(1984 pop. 1,340,940)* - A private developer is being required to work with Tri-Met in its construction of a transfer center in return for a conditional use permit.

The developer had planned a mixed-use development along the edge of a proposed light rail line which exceeded the permitted building size for its zoning category. At the request of Tri-Met, the County Planning Commission required that the developer participate in the construction of a transfer center and a park-and-ride lot. In return, the developer would receive a conditional use permit for the development.

The developer and property owners had agreed to provide the local match for the 80 percent UMTA grant through a dedication of land.

Results

Tri-Met is receiving a substantial land donation toward the local match for its bus transfer center and park-and-ride lot. The project is being designed to accommodate a future light rail right-of-way.

Legal Issues

The Planning Commission has the authority toward a conditional use permit to a "separate and unique" case which generally is acceptable but fails to meet a particular specification for a zoning category.

Political Issues

Tri-Met requested that the Planning Commission require a dedication of land and other specific aids to construction. However, the commission required only unspecified cooperation and participation. This opened the door for certain disagreements over site plans and the disposition of prime access-road footage between Tri-Met and the developer. If agreement proves impossible, the two parties will have to return to the County Commission to clarify its requirements as to the developer's participation.

Timing

Negotiations are continuing.

Contact

Ms. Lee Hames
Tri-Met
4012 Southeast 17th Avenue
Portland, Oregon 97202
(503) 238-4923

Proffer System

Overview

Fairfax County, Virginia *(1984 pop. 672,937)* - A major activity center in the county of Fairfax, Virginia, near Washington, D.C., is undergoing massive and rapid expansion. In response to growing traffic congestion, county officials have negotiated several agreements with developers under which developers have offered road improvements in return for zoning changes and occupancy permits.

Tysons Corner accounts for one-quarter of Fairfax County's real estate taxes, and one-third of the County's workers are employed there. Thirteen million square feet of office and retail space has already been built, and three million more are proposed for the next three years.

One of the proposed developments, Tysons II, is a $500 million shopping center and 11-building office park. The developers of Tyson's II, Homart Development Co. and Theodore N. Lerner, have proffered $16 million of road improvements to the County in exchange for zoning changes. The Tysons II location was originally zoned as a shopping center. Homart Development, in order to have the zoning changed to that for a planned commercial development, negotiated with the County to determine what road improvements would be needed to mitigate the development's impact. All improvements will be made by the developers including the construction of a six-lane road known as International Drive to connect two major arterials (estimated cost: $4.5 million); widening Route 123 between interchanges with other highways (estimated cost: $2.6 million); reconstruction of the interchange at Route 123 and I-495 (the Capital Beltway; estimated cost: $1.26 million); construction of a four-lane road known as Tyson's Boulevard to connect International Drive and Route 123 (estimated cost: $3.2 million); and several other improvements. The developers further agreed that improvements will be completed and the roads taken over by the State system, before occupancy permits will be issued.

A special group of local business executives has also been formed to monitor and advise on transportation issues in Tyson's Corner. The Tyson's Transportation Association represents major employers in the area. The Association has been consulted by the County for input on local mobility issues.

Results

Road improvements to mitigate the impact of major new developments will be constructed at no cost to the county. The Tysons II development is only one of 15 major developments with whom similar agreements have been negotiated in the last five years.

Legal Issues

The County negotiates and accepts proffers from developers pursuant to enabling legislation contained in the State statutes. These statutes provide for the developer, prior to the public hearing on the rezoning, submitting a signed proffer statement which contains all the conditions that the developer will comply in exchange for receiving the zoning change. Once proffered and accepted by the County, such conditions continue to be in full force and effect until a subsequent amendment changes the zoning on the property. Also, if the property changes hands, the proffered conditions require the developer to go through a formal public hearing process similar to that conducted for any request for zoning changes. The County also requires the submission of a development plan which fixes the level and type of development throughout the property covered by the proffer.

Political Issues

At public hearings local citizens protested the increased developments. The County feels that impacts will be mitigated by the improvements and that the County has been successful in negotiating with developers for proffers.

Timing

It took about ten months for the zoning changes to be completed in 1984. Road improvements are nearly complete, and building construction will begin in 1987.

Contact

Shiva K. Pant
Director
Office of Transportation
County of Fairfax
4100 Chain Bridge Road
Fairfax, Virginia 22030
(703) 691-3311

Related Experience

Orange County, California *(1984 pop. 2,075,758)* - In Orange County, the Irvine Company has offered to make local transportation improvements in an effort to improve access to Irvine Center which is a portion of Spectrum, one of the company's major developments. The 480-acre Irvine Center complex is located in the triangle formed by the Santa Ana (I-5), the San Diego (I-405), and the Laguna (SR 133) Freeways. As part of the interstate highway improvements the company has offered to:

- improve existing interchanges in order to upgrade substandard facilities,
- contruct new interchanges and overcrossings to mitigate traffic impacts at nearby existing interchanges,
- dedicate right-of-way for the upgraded existing and new interchanges,
- cover the costs of engineering and environmental impact studies.

The total cost of the improvements made by the Irvine Company has been estimated to be between $60 and $100 million.

One political issue that has been raised regarding the company's active participation in transportation projects is the degree of influence the company's interests have over State transportation prioritization.

Contact

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Irvine Company
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Newport Beach, California 92652-8904
(714) 720-2361

Ron Cole
Director of Planning and Programming
Orange County Transportation Commission
1055 N. Main, Suite 516
Santa Ana, California 92701
(714) 834-4333

Negotiated Investment

Overview

Dallas, Texas *(1984 pop. 1,723,423)* - On September 29, 1984 the Southland Corporation, founder of the 7-eleven retail store outlets, announced the acquisition of 140 acres two miles from downtown Dallas. The corporation intended to develop "CityPlace" over a long term, with 18 million square feet, including 4,500 housing units, and about 12 million square feet of office space.

Southland Corporation announced the intent to file for a planned development district, which would incorporate 24 acres of this recent acquisition. The first phase would include: 3.9 million square feet of office and retail space, two 50-story buildings requiring a height variance, and a variance seeking a reduction in required parking from 11,000 to 8,000 spaces.

The project was reviewed by a City development team which established some basic parameters for the negotiations. The development team established the following:

- o that every phase should include some housing,
- o the open space should be accessible to the public and maintained by the developer,
- o requested building heights could be supported if the edges of the development are subject to height restrictions,
- o contributions will be made to N. Central Expressway construction,
- o assistance will be provided to the Dallas Area Rapid Transit Light Rail program, and
- o the inclusion of a Transportation System Management (TSM) Program.

The building height issue was studied by the U.S. Federal Aviation Administration which stated that the development could build up to a maximum of 43 stories if a new $1 million instrument landing system was installed at Love Field.

Results

The City staff and the developer, along with the constant consultation of the City People coalition, negotiated the final set of conditions before submittal. The set of conditions were approved intact by the City Planning Commission and the City Council.

The approved agreement reduced public costs from the usual percentage of 64.5 to 19.5 percent, resulting in a cost sharing of $12.8 million public and $52.3 million private. These cost figures include:

ANALYSIS OF COSTS

	City/State	"CityPlace"
Roadway	$ 3,250,000	$28,150,000
Highway	9,050,000	13,950,000
Transit	--	1,300,000
Parkland	--	5,000,000
Public Utilities	500,000	2,900,000
Inst. Landing System	--	1,000,000
	$12,800,000	$52,300,000

The developer agreed to deed restrict the building height at the edges of the project to ensure a proper transition from this development to the surrounding low density neighborhoods. A transportation systems management program will be established in return for parking reductions. The TSM will include ridesharing, van pooling, contract busing, and public bus system subsidies. The developer will also construct 600 housing units during the Phase I commercial construction and will maintain the open space in perpetuity with public access.

Legal Issues

No legal issues were reported.

Political Issues

Neighborhood reaction to the proposed planned development district led to establishment of a coalition of organizations called "CityPeople." The concern of this group was over the issues of building height, increased traffic, and how the development would interface with the existing lower density residential neighborhoods. City staff was supportive to the neighborhood group and added concerns regarding the timing of housing, open space, and who will pay for infrastructure development. This neighborhood group maintained a constant dialogue with the City staff and the developer throughout the development review process.

This review generated so much interest and local involvement that the City Planning Commission delayed for 60 days the final ruling to allow City staff more time to define and clarify the conditions in the agreement.

Timing

On September 29, 1984 the Southland Corporation announced the intent to file for a planned development district.

Approval of the planned development district occurred in February, 1985.

Construction of Phase I began in July of 1985 and includes two 42-story office buildings and six low-rise buildings.

Contact

Jim Reid
Assistant City Manager
Planning & Development
City of Dallas
1200 Marilla
Dallas, Texas 75201
(214) 670-4188

V. Private Donations and Initiatives

A private donation or initiative results when a private developer or individual wants an improvement in facilities or service that may not be a high priority for the public agency, or perceives that there is a benefit to be obtained from participating in provision of a public sector service. Seeking a particular change, the private sector assumes responsibility for financing it in whole or in part.

One issue that may arise regarding these initiatives is: to what degree should specific private interests be able to influence public priorities?

The cases included in this section describe a number of private donations or initiatives.

- In **Grand Rapids, Michigan**, a wealthy individual was able to provide a local match for a downtown circulator system, in return for the lengthening of one of the system's routes.

- In **Houston** and **The Woodlands, Texas**, private developers made significant contributions for highway access improvements which helped fund and spur construction by the State highway department.

- In **Pittsburgh, Pennsylvania** a private, non-profit organization helped to raise funds and provided the impetus for renovation of a deteriorated downtown street.

- A merchant is subsidizing transit service in **Cedar Rapids, Iowa.**

- An advertising agency has provided bus shelters in **St. Louis, Missouri** at no cost to the public sector.

- The **State of Texas** has passed legislation which enables the private sector to assemble all rights-of-way and raise contributions to cover engineering and design costs for a 155-mile scenic parkway in Houston.

- In **Secaucus, New Jersey**, the developer of a residential community built a commuter rail station to provide residents with access to NJ Transit trains.

Local Match Donation

Overview

Grand Rapids, Michigan *(1984 pop. 626,376)* - A donation of the local match for a downtown bus system was made in return for the lengthening of one of the system's routes.

The Grand Rapids Area Transit Authority (GRATA) wanted to create a bus system downtown to complement the main bus route passing through the central business district. Several activity centers have been added or expanded in the downtown area in the past few years, such as the Gerald R. Ford museum, an art museum, and a performing arts center; thus, a system to connect them was needed. However, GRATA receives no general local funding; its services are supported by Federal and State funding and by contracts with the city and various social service and educational organizations. A wealthy individual who supports the downtown zoo and who had pledged $1,000,000 for its improvement was approached for a donation. The individual agreed to donate the $100,000 local match for the five buses, if the system were expanded to include a stop at the zoo.

Results

The new shuttle services cost $239,000 yearly. Some service on a park-and-ride shuttle and on a main bus route was replaced by the CBD shuttle for a savings of $94,800 yearly. Farebox revenues were projected to provide $45,000, advertising revenues $60,000, charter revenues $4,000, and State operating assistance $35,000. The "old-fashioned trolley" appearance of the buses and the density of downtown population during the day were expected to be attractive to advertisers. A net increase in ridership is projected at 350,000 to 420,000 annually, due to the convenience and low cost (no fare from park-and-ride lots, 10 cents within the CBD, and a half-fare of 25 cents to the zoo). Also, the increased transit service within the downtown area was expected to spur further development.

Legal Issues

Although GRATA has the legal power to accept contributions, the bus purchase money was donated to the City of Grand Rapids. GRATA signed an agreement with the City to accept the money.

Political Issues

GRATA was made aware of the potential donor only because of an informal discussion between the general manager of GRATA and the director of Grand Rapids Leisure Time Activities (whose jurisdiction includes the zoo).

Objections to the downtown bus system were raised by wheelchair advocates. However, as no State capital funds were involved, there was no legal requirement that the buses have lifts. The cost of ramped buses would have been prohibitive; only one potential bus supplier offered them, and he withdrew his offer before bidding began.

Timing

The donor was approached in late 1981. The trolley system began operations in July, 1983, but ceased operation about a year later. There is

still a bus route connecting downtown to the zoo.

Contact

Don Edmondson, General Manager
Grand Rapids Area Transit Authority
333 Wealthy, S. W.
Grand Rapids, Michigan 49503
(616) 456-7514

References

CBD Shuttles Service Plan, November 8, 1982.
CBD Shuttles Services Operational Plan, June 1983.

Private Initiative for Highway Construction

Overview

Houston, Texas *(1984 pop. 2,747,341)* - A development company has contributed to the cost of constructing a portion of highway fronting its mixed-use development in order to speed completion of the project.

Beltway 8 is a highway which will circle the outer portions of Houston when it is completed, although only a few sections are now constructed. Friendswood Development Company (FDC) wanted to ensure that a 1.2 mile portion fronting the southern boundary of its Green's Crossing project was completed. This roadway, for which State funds had not been previously appropriated, would connect the Friendswood commercial and residential development to an interstate highway (IH 45).

Therefore, in 1981, Friendswood Development offered to donate right-of-way, to design the roadway, and to contribute toward construction costs. The State Department of Highways and Public Transportation (SDHPT) quickly accepted, and agreed to fund construction.

Friendswood Development Company's participation was as follows:

Component	Total	FDC	%FDC
Right-of-way	$5,508,000	$277,000	5%
Utility adjustments	757,000	-	-
Design	360,000	360,000	100
Construction	4,875,000	313,000	6.4
TOTAL	$11,500,000	$950,000	8.3

Results

The State Department of Highways and Public Transportation received $950,000 in private sector aid to build a section of highway which will facilitate access to Houston's Intercontinental Airport. Friendswood Development Company received speedy completion of a convenient access route to its 600-acre mixed-use project.

Legal Issues

No legal problems were reported.

Political Issues

No political problems were encountered.

Timing

Friendswood Development purchased the Green's Crossing acreage in February,1980. In early 1981, SDHPT accepted the developer's offer of a private contribution. SDHPT changed the right-of-way requirements twice, extending the design process and delaying the project for about a year. Bids were accepted in March, 1983 and a construction contract was awarded in

April. This portion of Beltway 8 opened in March, 1986.

Contact

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Operations Manager, Commercial Projects
Friendswood Development Company
P.O. Box 2567
Houston, Texas 77252
(713) 875-7656

References

Planning and Financing Urban Mobility in Texas, prepared by Rice Center, September 1983.

Private Initiative for Interchange Development

Overview

The Woodlands, Texas *(1986 pop. 20,000)* - The Woodlands Corporation (TWC) has been active financially and politically in expediting highway improvements to increase access to The Woodlands, a new town development 27 miles north of downtown Houston. TWC has participated directly in three projects on I-45, the major access route to downtown Houston.

The so-called "northeast connector" project will provide a much needed final piece of a currently incomplete interchange between I-45 and Woodlands Parkway and thus relieve a major congestion point. The entire project cost $930,000, of which about 68 percent was for right-of-way acquistion. TWC contributed $164,000 in cash to the State Department of Highways and Public Transportation (SDHPT) for the project, representing nearly 18 percent of its total cost.

At the same interchange, a right turn from Woodlands Parkway onto the southbound freeway frontage road is currently controlled by a stop sign. A merge lane has been built to allow free flow for this turning movement. Although not finalized, TWC provided the construction materials for this project in exchange for design and labor by SDHPT. This arrangement facilitated completion of the project. The total cost of this project was about $75,000. TWC's offer amounted to between $15,000 and $20,000.

TWC also agreed to commit $2.2 million dollars to a series of interchange improvements along the portion of I-45 adjacent to The Woodlands. This portion of I-45 is projected to continue to be the most congested in Montgomery County, and by the year 1990, it is estimated that, without capacity improvements, congestion in the area will reach a severe level similar to that currently experienced in parts of central Houston. TWC hopes to raise the priority of these freeway improvements through its contribution.

Results

The SDHPT has been offered a total of almost $2.4 million from the private sector to complete projects already planned. The Woodlands Corporation will receive speedy completion of access routes vital to the growth of the development.

The $2.2 million contribution is being matched by Montgomery County, and TWC is applying to the Federal Highway Administration for a 90 percent reimbursement of the $4.4 million. If this application is accepted, it is possible that TWC could leverage other improvements needed on I-45; private funds and Federal reimbursements would finance the construction, with State monies used only for front-end investment.

Legal Issues

State legislation may be needed to direct any Federal funds directly to I-45 rather than into the State's general highway fund.

Political Issues No political problems were reported. Local funding from Montgomery County was provided by a bond election and formation of a road district with separate taxing authority.

Timing The improvement plan for I-45 grew out of a 1982 mobility plan for the area which TWC underwrote.

Contact

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The Woodlands Corporation
2201 Timberloch Place
The Woodlands, Texas 77380
(713) 363-6817

References *Planning and Financing Urban Mobility in Texas*, prepared by Rice Center, September, 1983.

Private Initiative for Downtown Improvement

Overview

Pittsburgh, Pennsylvania *(1984 pop. 2,371,955)* - A private, non-profit economic development organization provided the impetus and some of the funds for the renovation of a deteriorated downtown street.

The Allegheny Conference on Community Development saw a need for improvements to major downtown streets. A study for which it raised private funds indicated that Grant Street, a downtown street connecting State highways, would be the best road with which to begin. Twenty-three major buildings front Grant Street, including U.S. Steel, Rockwell, and Gulf Oil office buildings, and various city, county, and Federal buildings.

After commissioning a report estimating design and engineering costs for the renovation of Grant Street, the Allegheny Conference joined with representatives of the area's buildings to work with the Mayor of Pittsburgh and the City's Planning Department and Department of Public Works. The City accepted the plan to widen and improve sidewalks, plant trees, replace cobblestone with brick paving, bury overhead wires, and eliminate streetcars.

Grant Street, as an urban road connecting State highways, is eligible for 75 percent Federal funding through FHWA's Urban System program. The renovations will cost $13 to $14 million; the City will finance the 25 percent local match by issuing six-year capital improvement general obligation bonds. Improvements which go beyond City standards will be financed by the Allegheny Conference, which is in the process of raising $500,000. The Allegheny Conference will attempt to organize a maintenance association of property owners to maintain the extra amenities.

Results

The Federal grant was approved and construction began in the Spring of 1984. This is a four-phase project, each phase taking approximately one year to complete, with Phase One completed. Construction was stopped after Phase One was completed due to the enactment of the Gramm/Rudman/Hollings balanced budget legislation. Federal funds from FHWA's Federal Urban Highway Program, which contributes 75 percent of the total funding, were impounded until the new legislation was in place. Through the efforts of the mayor of Pittsburgh the funds were eventually released. Construction on Phase Two will begin in the Fall of 1986.

The Allegheny Conference decided on using linear front footage as the basis for determining what contributions will be solicited from Grant Street property owners.

The Conference, whose board members include many prominent Pittsburgh business leaders, hopes that this project will provide the impetus for city government to renovate other downtown streets using the high standards developed for Grant Street.

Legal Issues

The Allegheny Conference is a private, non-profit organization which is soliciting contributions, not making assessments. The money they collect is then given to the City for the improvements.

Political Issues

Grant Street property owners and the Mayor of Pittsburgh were very enthusiastic about the idea from the start. The Department of Public Works was skeptical, but persuasion from the Mayor's office, combined with a change in the department's administration, overcame that.

The Allegheny Conference, formed in 1943, had the advantage of a long history of cooperation with and trust from the community. This, plus the assumption by the Conference that the public sector is responsible for making decisions and that the private sector can only persuade and not force, ensured the success of the Grant Street project.

Timing

Members of the Allegheny Conference had been discussing renovating downtown streets for several years. About 18 months elapsed between the first study of the area and the final report to the mayor. Construction began in the Spring of 1984 with four phases. Each phase will take approximately one year to complete. The initial starting date was delayed by the construction of a new subway system which crosses Grant Street. This subway system replaces the old streetcars which will be completely removed.

Contact

Mr. Robert B. Pease, Executive Director
The Allegheny Conference on Community Development
600 Grant Street, Room 4444
Pittsburgh, Pennsylvania 15219
(412) 281-1890

Merchant Subsidy

Overview

Cedar Rapids, Iowa *(1984 pop. 169,535)* - Cedar Rapids Bus Department markets Ride-and-Shop cards through area merchants, who discount them for customers. The retailers receive the cards from the transit department and pass them on to customers with a purchase. When the bus drivers turn in the collected discount passes, marked with the store name, the merchant is billed for the balance of the fares. The coupons provide discounts of either one-half or the full bus fare.

Results

In the last fiscal year, $21,350 was collected from participating merchants, with about 70 percent of that from the sole surviving large downtown department store, Armstrong's. Over 150 businesses are approached yearly, and about 186 now participate. Businesses in suburban shopping malls, which are increasing at the expense of downtown stores, seem now more inclined to market the Ride-and-Shop program. The number of cards marketed each year has not appreciably increased, but the Cedar Rapids Bus Department plans to continue the service.

The merchant subsidy amounts to about 3.1 percent of total annual revenue, which is approximately $670,000. Total annual operating costs for the transit system are $2.2 million a year, the bulk of which are covered by municipal and Federal funding. State funding is negligable.

Legal Issues

The Cedar Rapids Bus Department is operated by the City of Cedar Rapids.

Political Issues

No political issues were reported.

Timing

The program was begun in 1965.

Contact

William Hoekstra, Transit Manager
City Bus Department
427 Eighth Street, N.W.
Cedar Rapids, Iowa 52405
(319) 365-0455

Bus Shelter Development

Overview

St. Louis, Missouri *(1984 pop. 2,398,392)* - A private advertising agency provided bus shelters at no cost to the St. Louis bus system.

The Bi-State Development Agency wished to have bus shelters but did not consider them a high enough priority to apply for Federal grant money. Therefore, a request for proposals was written and bids were taken for private provision. The accepted contractor provided 121 shelters, costing $5,000 to $7,000 each, and installed and maintains them, all at no cost to Bi-State. In addition, Bi-State is to receive 12 percent of the advertising revenue, which had been estimated at $50,000 annually.

Results

Bi-State received 121 installed and maintained shelters worth over $600,000 at no cost. However, advertising revenues may be lower than projected as sales have been fairly slow so far. (As with any new industry, bus shelter advertising initially requires aggressive marketing for it to gain widespread acceptance.)

Legal Issues

A city permit was required to build the shelters.

Political Issues

There was some opposition by local store owners regarding the sites of individual shelters but there is little or no opposition now.

Timing

The request for proposals was written in early 1982. All shelters were erected by mid-1983.

Contact

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Manager of Design and Engineering Services
Bi-State Development Agency
707 North First Street
St. Louis, Missouri 63102
(314) 289-2014

Texas Transportation Corporations

Overview

State of Texas *(1984 pop. 15,988,538)* - State legislation in Texas created a mechanism by which rights-of-way may be donated for a public road and its value claimed as an income tax deduction. The stated purpose of the Texas Transportation Corporation Act (TTC), passed in 1984, is the "promotion and development of public transportation facilities and systems by new and alternative means." Transportation corporations are authorized to act on behalf of the State Highway Commission "to secure and obtain rights-of-way for urgently needed transportation systems and to assist in the planning and design of such systems." The legislation will enable the State Highway Commission to more effectively use funds available to it, and encourages private sector participation in large scale projects from which developers and landowners benefit extensively. Under the act, a non-profit, non-stock transportation corporation which acts on behalf of the commission in a designated area may be formed by three or more persons after authorization and approval by the commission. The corporation may perform alignment studies, receive (and return, if necessary) contributions of land or cash for rights-of-way; retain administrative, legal, public relations, and engineering services; prepare exhibits, documents, and engineering plans, and incur debt.

The Act also states that a corporation handles both contributions of land for rights-of-way and cash contributions. Land titles are held in escrow by the corporation and given to the State Department of Highways and Public Transportation (SDHPT) if the land is used. If the land is not used, title is returned to the owner by the corporation.

Several TTCs have been established in Texas. The largest project undertaken by a TTC is the Grand Parkway, a 155-mile scenic parkway around Houston which passes through five counties. The Grand Parkway Association is collecting all of the rights-of-way for the parkway, as well as cash contributions which will cover engineering and design costs. The Association must coordinate with and obtain approval from SDHPT for matters concerning the direct development of the project, including environmental impacts, segment termini, typical sections, rights-of-way determinations, landscaping, and construction plans and specifications.

Results

Construction on at least one segment of the Parkway, which was stalled because of lack of a sponsor, will begin in 1987. The private sector will contribute $56 million for engineering, design, and other "soft" costs. The value of rights-of-way being donated by the private sector is estimated to be between $250 and $500 million.

Legal Issues

Although corporations to collect rights-of-way were legal before passage of the TTC Act, there was no explicit cooperation with the State Highway Commission and no mechanism to return gifts made directly to the State in case of project failure. Enacting legislation was required to make possible the special relations between the Commission and a TTC. The TTC legislation resolves these problems. The Internal Revenue Service has ruled that the Grand Parkway Association is an exempt organization to which tax deductible contributions may be made, provided that all other requirements for deductibility are met by the donor.

Political Issues

Extensive media exposure of the fact that several members of the Grand Parkway Associates Board of Directors owned land on the Parkway's route, and local perception of possible conflict of interest, forced a change in Board rules. Landowners now may only serve as advisory directors.

Timing

The Grand Parkway was originally conceived in 1961 and first appeared on preliminary Houston plans in 1968. It was removed from planning maps in 1978 because of lack of a sponsor. In November, 1983 an SDHPT minute order designated 31 miles of the proposed parkway as a proposed State freeway. The TTC Act was passed in June, 1984, and the Grand Parkway Association created in October, 1984. In December, 1984, the SDHPT approved the first segment and committed to begin construction within two years, pending submission of rights-of-way and engineering. The Grand Parkway Corridor is shown on 1985 Houston Planning Maps.

Contact

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The Grand Parkway Association
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Houston, Texas 77057
(713) 782-9330

Mr. Bill McAdams
Chief Right-of-Way Attorney
Texas State Department of Highways and Public Transportation
P. O. Box 5075
Austin, Texas 78763-5075
(512) 835-0811

Rail Station Construction

Overview

Secaucus, New Jersey *(1984 pop. 14,990)* - N.J. Transit, funded by Hartz Mountain, Industries, Inc., has constructed a rail station located along the Suffern, New York, and Hoboken, New Jersey railroad line. The Harmon Cove development is located within the town of Secaucus, south of New Jersey Route 3 and bounded on the west by the Hackensack River. The 750-acre development was begun in 1969 and consists of 1,200 condominiums and 15 million square feet of office space and warehouse distribution facilities.

Prior to the construction of the rail station, the train passed through the southern end of the development without stopping. A rail station was proposed by Hartz Mountain, Industries, Inc. and soon after, construction began.

Results

Hartz Mountain, Industries Inc. funded the total project amount of $300,000. Since rail station completion, ridership has increased steadily. Overall, the community seems to be pleased with the station. A shuttle bus for the residents and employees of Harmon Cove is available to provide transport to and from the rail station. The cost of operating and maintaining the shuttle bus is $55,000 per year. The shuttle has been operable for eight years and has proven useful to the community.

Legal Issues

No legal issues were reported.

Political Issues

Other than minor disagreements about the location of the access road to the rail station, no political issues arose.

Timing

Construction on Harmon Cove began in 1969. Construction began on the rail station in early 1977 and was completed late 1978. The shuttle bus began running shortly after the opening of the rail station.

Contacts

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Hartz Mountain, Industries Inc.
400 Plaza Drive
Secaucus, New Jersey 07094
(201) 348-1200

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Meadowlands Development Commission
#1 de Korte Park
Lyndhurst, New Jersey 07071
(201) 460-1700

VI. Use of Property and Property Rights

Both highway and transit agencies have discovered means of generating additional revenues by leasing air rights, land, or facilities to the private sector. Once an agency has full or partial interest in a property it can -- subject to legal restrictions -- use or dispose of any portions not needed for the transportation purpose. The uses of such property fall into three general categories. By far the most popular is the leasing or selling of development rights; negotiated land leases and leasing or selling of existing facilities are also used.

Leasing/selling development rights, also known as joint development, is a method of capturing the full or partial value of land holdings. Space above, below, or adjacent to transportation facilities has proven to be marketable in a variety of ways. Joint development projects such as air rights leases require a high level of public/private cooperation. A negotiated land lease is an agreement between private developers or land owners and a transit agency, under which land is leased to the agency in exchange for construction of a transit facility. Typically, the agency obtains the facility site for a nominal fee. Leasing facilities which have already been constructed provides an opportunity to generate additional, sometimes unanticipated, revenues.

- Five cases examined in this section present joint development projects. The project in **Boston, Massachusetts** demonstrates how space over a major urban highway can be adapted to mixed-use development and generate a substantial income at no risk to the public agency. Two air space leasing programs, in **Washington, D.C.** and **California,** demonstrate a large scale approach to joint development. The program in Washington is transit-related; the one in California is highway-related. The joint development project in **Cedar Rapids, Iowa** was the centerpiece of an urban redevelopment program, and that in **Sparks, Nevada** demonstrates a private sector initiative to produce a joint development.

- One example of a negotiated land lease in **Tacoma, Washington** involves establishment of transit transfer centers on land belonging to a community college and a school district.

- In **Santa Cruz, California**, the transit agency is leasing space in its intermodal transfer facility for office and retail uses to offset operation and maintenance costs.

Leasing Highway Air Rights

Overview

Boston, Massachusetts *(1984 pop. 570,719)* - A developer has a 99-year lease for the air rights over a portion of the Massachusetts Turnpike, which he used to construct a mixed-use project.

The project, Copley Place, includes two hotels, an office/retail area, and 900 parking spaces. Its 9.5 acres are constructed over a railroad right-of-way as well as over the turnpike, in a prime area of downtown Boston.

The Turnpike Authority negotiated with the Urban Investment and Development Company to develop the site. Both parties hired real estate appraisers to determine the value of the air rights. The value agreed upon was slightly less than the basic land costs of other sites in the area, but land and reconstruction costs considered together were roughly equivalent to nearby site values. The developer financed the reconstruction and relocation of infrastructure, including water, electrical and telephone lines, rail right-of-way, and turnpike ramps.

The value of the rights was agreed upon and set at $12 million. The Turnpike Authority and Urban Investment agreed that the Authority should receive a 10 percent annual return on this value for the remaining estimated life of the Authority's bonds (after the bonds are retired the Authority will cease to exist and the Massachusetts Turnpike will become part of the State highway system). Urban Investment wanted the lease divisible to enhance its ability to finance the project by separate leasehold mortgages, but the Turnpike Authority was unwilling to do this. The Authority wanted (if there were to be separate leases of portions of the project) cross-default clauses so that default under any one lease would be a default under the others. Any such provision would take away benefits the developer hoped for through separate leases.

The impasse was broken by Urban Investment agreeing to purchase U.S. Treasury Bonds (at an interest rate and maturity rate designated by the Authority and at a maturity date subsequent to the estimated retirement date of the Authority's bonds) for an amount equal to the agreed-upon value of the rights--$12 million. The bonds were placed in escrow in a Boston bank, which pays the interest every six months to the Authority. The Authority or the Commonwealth, as its successor, may call for the bonds to be sold and the proceeds paid to it at any time. After such a sale, or upon the maturity of the bonds, rent will be reduced to $1.00 per year.

Results

The 99-year lease for the turnpike air rights will return $1.2 million per year to the Massachusetts Turnpike Authority's general fund for the life of the bonds, as well as place the $550 million property on the City's tax rolls. The lease provides built-in escalation in that the face amount of the bonds which Urban Investment was able to purchase was greater than the amount which had to be paid for them by several million dollars. When the bonds mature the Authority or the Commonwealth will receive a form of delayed one-time rent escalation.

Because of this "balloon" payment upon maturity, and because the Authority receives interest throughout the life of the bonds, the lessor's income is greatly enhanced over conventional lease income. While the lessor does not share in profits from Copley Place, it is also free of any risk associated with the development failure, and will own all of the improvements constructed by the lessee when the lease expires.

Legal Issues

The Massachusetts Turnpike Authority, as a small public agency, was able to negotiate with the developer as a sole source bidder for development of the site. While it is independent of the Federal Highway Administration and the Massachusetts Department of Public Works and their more stringent requirements, the Authority's enabling legislation does prevent it from selling development rights, or from entering into a lease for more than 99 years. The lease had to be approved by the members of the Turnpike Authority and by the Governor of the Commonwealth of Massachusetts.

Once negotiations were complete and it became clear that the Authority's rent would essentially be paid in advance, the Authority was no longer concerned about rent; it could therefore remove from the lease standard default clauses. In the event of default, the Authority may only seek relief by means other than termination. The Authority allowed the lease to be divided, thus allowing Urban Investment to arrange separate financing of major project components.

Political Issues

A gubernatorial election in the midst of negotiations caused a delay while new officials were brought into the process.

Over 80 community meetings were held to gain both required official approval and unofficial community approval of the project. An active community group sponsored by the Authority and by the governor participated in the design of the buildings in the project.

Timing

The appraisal, evaluation, and negotiation process between the two parties, involving real estate, engineering, and legal consultants, took a year and a half. Because other financial mechanisms were also utilized, the entire development process took four years. Copley Place was completed in 1984.

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Joint Development Program

Overview

Washington, D.C. *(1984 pop. 3,429,613)* - The Washington Metropolitan Area Transit Authority (WMATA) has developed formal procedures for identifying and implementing joint development opportunities. Following these procedures, WMATA has secured six joint development agreements with private developers, and if all goes as planned, the procedures will be used to realize joint development opportunities at as many as 50 additional station sites over the next ten to 20 years. As of September, 1986, construction had been completed at five of the six initial station sites.

One example of WMATA's joint development projects is located at the Van Ness/University of District of Columbia (UDC) station on Connecticut Avenue in northwest Washington, D.C. Prudential Insurance Co. of America leases 1.5 acres from WMATA for an initial term of 50 years on this site. Prudential has completed construction of a 200,000-square foot, seven-story office and retail building. The project incorporates an upgraded level for a 24-space bus and ride facility, as well as weather protected bus bays at the rear of the building. The lease terms require that Prudential pays a guaranteed annual rent of $260,000 plus a percentage of its net profits (if any) to WMATA.

Results

The WMATA will realize a total of $3.8 million in direct income from all joint development system interface projects during FY 1986, and will receive cumulative revenues of approximately $10 million. This is based on six joint development projects which are completed, underway, or in the approval process, in addition to five existing projects with some degree of system interface. These figures do not include "additional" income, which may result from improved financial performance of joint development projects (in whose cash flows WMATA will participate), or revenues generated by increased ridership. Direct annual income from joint development is expected to grow to $12 million in the next ten years.

Legal Issues

When Prudential Insurance Co. was selected as the Van Ness project developer, an unsuccessful bidder instituted a series of challenges against the decision, eventually leading to a legal action that was resolved in favor of WMATA. To assure rental income growth WMATA has negotiated leases based upon gross project revenues in order to avoid the extensive auditing responsibilities associated with monitoring net profits.

Political Issues

After many public meetings with local agencies and neighborhood committees, the scale of planned development at Van Ness had to be reduced in order to obtain necessary land use permits. Residents believed that more intensive development would increase traffic congestion in the area.

Timing

The WMATA invested significant amounts of time and effort in attracting the interest of developers and in obtaining public acceptance of the project at the Van Ness/UDC station. It conducted appraisals, prepared transit impact studies, and requested zoning changes permitting more intensive development around the station which is expected to increase ridership

levels. The WMATA first contacted the District of Columbia Office of Planning and Development in 1977 about joint development opportunities at the Van Ness/UDC station. It issued a prospectus for the site in January, 1979 and selected the developer in 1979. Construction began approximately two years later. The project was dedicated in the spring of 1983. While Prudential is paying WMATA its guaranteed annual rent of $250,000, WMATA is not receiving any "additional" revenue from the percentage of net profit clause in the contract. (By 1985, Prudential had leased only 60 percent of its space due to unfavorable conditions in the real estate market.)

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Leasing Highway Air Rights

Overview

State of California *(1984 pop. 25,622,497)* - The California Department of Transportation (Caltrans) has an aggressive air rights leasing policy. Caltrans actively markets sites it feels have potential to generate revenues, based on location, existing zoning, and adjacent development and it makes site availability known through mailings to developers, through advertising in local and national publications, and through the personal contact of staff members with the development community.

The Airspace Development Program is a multi-faceted program that benefits private and public sectors. Returns to the State are placed into the Transportation Fund which generates either direct payment of costs of operations or matching funds for Federal monies which pay for new projects. The private sector benefits by availability of land in areas where development land is generally scarce or not available. Proximity to transportation facilities offer developers corporate exposure to thousands of travelers daily, and easy access for goods, customers, and employees. Airspace use also adds properties to the tax rolls.

Because it has engaged in many leases over a long period of time, Caltrans has been able to develop standard forms and follow similar procedures for each lease. The staff members who handle air rights leasing have developed expertise in the negotiation and development processes. Completed projects range from a two-and three-story office complex in San Diego's Mission Valley, to an auto sales and service facility in La Canada, to a mini-blind manufacturing plant with corporate offices, and a Hilton Hotel all located in downtown Los Angeles.

Results

In FY 1984-85, with 389 parcels under lease, the Airspace Development program produced a gross return in excess of $5.8 million, and a net income of $4.8 million. It is anticipated that through inflation on existing lease rates and new leases being developed, income will more than double in a very short period. In addition, local agencies will profit by more than $1 million a year in use and personal property taxes and business licenses. Lease income is placed in the State Highway Trust Fund.

Legal Issues

Caltrans is required by law to request bids for all parcels and sites. Caltrans may directly negotiate a lease only in cases where the prospectus lessee is the only possible user or where it is clearly to the State's advantage to do so. Clear justification must be made and the lease must be unanimously approved by the California Transportation Commission (CTC). Bid leases do not have to be approved by the CTC. Once an option to lease has been purchased, the developer must meet local requirements for zoning changes, receive building permits, and complete other related processes. The cost of the option escalates over time.

Political Issues

Political problems have been encountered locally with citizen's groups, environmentalists, or local officials objecting to specific developments. Local governments or other State agencies have occassionally argued that Caltrans should give up parcels for other use.

Timing

The program has existed for 18 years. Since 1979, leases have become a more important source of revenue. Although timing varies, it generally takes a year from the time an option is purchased to the beginning of construction or development.

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Joint Development of Transportation Center

Overview

Cedar Rapids, Iowa *(1984 pop. 169,535)* - A large joint development project, the Ground Transportation Center (GTC), was completed in 1983-84 in Cedar Rapids involving a new intermodal transit terminal, a 15-fifteen story private office tower, and a second level skywalk connection to adjacent development in the central business district. The GTC houses inter-city and city bus carriers, as well as taxi stands, special minibus transit services, and a car pick-up/drop-off area. A 500-car parking garage is connected by skywalk. A 50-unit apartment complex is under construction.

The City wanted developer commitments early on so that the private sector could be involved in the planning and design phases of the project. High interest rates and budget cuts took their toll early in the development process, causing elimination of a second story retail mall component, and the withdrawal of retail and housing developers. An innovative agreement with a new developer enabled the project to proceed as planned.

The project cost an estimated $31 million. Tax increment financing allowed the issuance of $4.5 million in TIF bonds, $2 million of which was used to cover the local share of project costs. The remainder was used to finance a parking ramp. Demolition, site preparation, and construction costs for the $10 million transportation center were covered primarily by grants from UMTA and the Iowa DOT. Funding for the $15 million office tower was partially covered by industrial revenue bonds. The $3 million housing project is being financed conventionally.

Results

The City also executed a 20-year lease with Greyhound Lines, and a 5-year lease with Burlington Northern. The lease covers bus bays and shared terminal space on a pro-rated basis. These two leases generate $27,842 annually.

City officials estimate that the GTC will spur $40 million in private investment in the CBD over the next ten years. The increased tax proceeds from the TIF will pay for $10 million in public improvements.

The construction of a new $8 million central library and a City-sponsored riverfront park, and the planned construction of a downtown YWCA are also evidence that the GTC has helped to revitalize the downtown area.

Airspace rights were leased to the office tower developer for 50 years with three automatic renewals. The lease calls for an annual rent based on 15 cents per square foot of each floor or condominimum unit, for the first ten years. Thereafter, the value of the land under the building will be appraised, and each floor of the building will generate lease income equivalent to 1 percent of that valuation. Once the developer has transferred possession of these floors to one or more purchasers, the new owners pay the rent on their leased space directly to the city. The annual yield to the city is $27,500.

Legal Issues

In May, 1982 two general contract bids were submitted for the public (transit) portion of the GTC. Rinderknecht Associates, Inc. in association with a minority firm, Newson Construction, submitted a bid of $6.4 million. Newson's financial participation gave the package over 10 percent of worth of business for minority firms.

The lower bid came from Knutson Construction, and included only about 4 percent for minority firms. The City's MBE committee recommended, with UMTA concurrence, that the City accept the higher bid. When the City awarded the contract to Rinderknecht, Knutson threatened a suit.

An agreement was reached that allowed the two companies to share the contract. Rinderknecht subcontracted about 80 percent of the award to Knutson, and in return Knutson withdrew its bid and its threatened court action. In the end, construction work on the public portion of the GTC included about 8 percent minority participation.

Political Issues

The completion of the GTC joint development project was possible only because of extensive cooperation between local, State and Federal officials, private developers, and community representatives. The original plan called for a retail mall on the second level which was to be an extension of the proposed second street mall, near the center; an eight-to twelve-story office building; and a ten-to twelve-story apartment complex. When the second street mall was cancelled, the retail component of the center was no longer economically viable. The housing developer also withdrew for economic reasons.

At that point the City began to hold meetings with other developers and interested tenants, and finally reached agreement with a developer to construct the apartment tower, on the condition that he could also develop the office building. The original office tower developer transferred his rights to the new developer and was allowed, in return, to retain ownership rights in one floor of the building.

The new developer proposed to sell floors of the office tower as condominiums, and after several floors had buyer commitments the project was resumed.

Timing

Feasibility studies began in August, 1977. UMTA approval of the GTC grant came in December, 1979. There were only 17 months between groundbreaking in June, 1982 and opening the inter-city bus terminals. The final project close-out was in October, 1984.

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References

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Leasing Highway Air Rights

Overview

Sparks, Nevada *(1984 pop. 47,896)* - A Sparks casino expanded its facility and entered into an air rights lease with the State for property under and adjacent to a new highway viaduct.

The owner of the Nugget Casino approached the right-of-way division of the Nevada Department of Transportation, which hired an independent appraiser to determine the value of the property. The contract negotiations were complicated by the fact that there were not yet any State laws to regulate the procedure. The Federal Highway Administration, which funds 90 percent of the construction costs of interstate highways, had to approve the lease. The FHWA agreed initially only to allow the leasing of air space under interstate Route 80 for parking, which was regarded as an appropriate and easily managed use of the property. Eventually, the lease was amended to incorporate vacant ground within the highway right-of-way, which was used to expand the casino facility.

Results

The lease returns approximately $97,000 each year to the highway department's general fund and places the project's 154,000 square feet of commercial development on the Sparks tax rolls.

Legal Issues

Following the execution of the Nugget Casino lease, the State legislature passed a requirement that, following Highway Department receipt of a proposal to lease property, notice must be published and 60 days allowed for interested developers to submit alternative proposals. The Highway Department felt this was a beneficial requirement since it expands the range of potential lessors while opening the process to public scrutiny, thus eliminating criticism and defusing potential allegations that might arise as a result of sole-source bidding.

Political Issues

Because there were no State laws regulating the lease of air rights at the time, the Nugget Casino negotiations were particularly extensive.

Timing

The I-80 viaduct was built in 1967-68. The lease was entered into in 1968 for 50 years, and is adjusted every five years in accordance with the evaluation of an independent appraiser hired by the State.

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Negotiated Land Lease

Overview

Tacoma, Washington *(1984 pop. 159,435)* - Pierce Transit is expanding its service by adding five (ultimately six) transfer centers. These centers were intended to be located on private land leased to Pierce at $1.00 per year for 20 to 30 years. Three of five have been successfully located, leased for one per year constructed. The next two are still in planning stages though they are in interim operation.

Pierce Transit hired a consulting firm to suggest areas for the transfer centers, requiring that each be located at regional or community activity centers and be within at least 25 minutes of another transfer point. After choosing three of the four areas, the transit agency held public hearings on possible sites, finally deciding on land belonging to a community college, a school district, and a large shopping mall for the facilities. While negotiations on leasing the chosen sites were conducted, Pierce set up temporary centers for less than $2,000 each (painted areas in parking lots). Pierce has now constructed three facilities with raised platforms and shelters. Funding came from an UMTA grant (80 percent of cost) and from transit funds derived from a 3/10-cent State sales tax (20 percent of cost). The planning for the next center is now in progress.

Results

Pierce Transit benefits from not having to condemn and buy the needed land. The 3.3-acre parcel on a corner of the Tacoma Community College parking lot is in an area of $3.00 to $5.00 per square foot land values, which might give it a comparable value of $430,000 to $720,000. The two-acre parcel belonging to the Franklin Pierce School District might be valued at $130,000 to $170,000 ($1.50 to $2.00 per square foot). The one acre parcel on the Tacoma Mall parking lot might be valued at $175,000 or more (over $5.00 per square foot).

The non-transit investors also benefit. The Tacoma Community College has reversed a trend of falling enrollment by promoting the convenience of the transit center. The Franklin Pierce School District is leasing underutilized land which commercial developers had been eyeing but which the District preferred not to sell outright. Allied Stores, owners of the regional shopping center, used its commitment to a transfer facility as a bargaining chip with the city council during negotiations to reduce the parking requirements at the mall. Many of the workers who ride the bus have the opportunity to shop at Tacoma Mall before transferring to a final bus home. Riders are responding favorably to the high quality of the new facilities, and the "guaranteed" nature of the timed transfer, according to informal surveys taken by Pierce.

Legal Issues

Pierce Transit is designated as a municipal corporation and a public utility, and as such has the right to contract with private property owners.

Allied Stores of Tacoma Mall, one of the largest malls in the northwest (1.6 million square feet of retail space), had to apply to a city commission, hold public hearings, and gain final approval from city council for reduced parking requirements (from 5.5 spaces per 1,000 square feet to 5 spaces per

1,000 square feet). This held up completion of final lease arrangements with Pierce.

Political Issues

The public hearings were fairly well attended, and three of the four communities were very receptive. Pierce began planning in 1980. The first lease, which took three months to negotiate, was signed in 1983, the next two were signed in 1984.

Timing

The Franklin Pierce facility opened in October of 1984; the Tacoma Community College facility opened in November of 1984 and the Tacoma Mall facility opened December 1985. The third and fourth centers are also planned to be in activity centers, one in the southeast Tacoma area on private land, the other on public property in downtown Puyallup, as part of a future development for a civic center complex. These latter two are now in interim operation at those sites. There is a sixth transfer center planned for the I-5, SR-512 Lakewood area. It will be a park-and-ride facility built in conjunction with the Washington State Department of Transportation using mostly interstate highway funds and some UMTA funding. Final design for this sixth facility will be completed early in 1987, and construction will start during the summer of 1987 depending on Federal Highway Administration interstate funding availability.

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Leasing Facilities

Overview

Santa Cruz, California *(1984 pop. 205,816)* - The Santa Cruz Metropolitan Transit District (SCMTD) is leasing office and retail space in its new downtown Intermodal Transfer Facility to offset operations and maintenance costs.

The Metro Center is located south of downtown, next to an outdoor shopping mall (the Pacific Garden Mall) and the local Greyhound Bus terminal. It includes pedestrian, bicycle, and bus facilities. Because of the facility's intermodal nature, it was possible to finance it with California State funds by means of a half-cent sales tax, rather than with Federal funds. The total cost of the facility (land acquisition and construction) was approximately $2.5 million.

The Metro Center offers 3,932 square feet of restaurant and retail space to tenants in the ground floor lobby, 503 square feet of office space to tenants on the second floor, and six 100-square foot concession booths in a separate landscaped island area. Total leased space is 4,435 square feet. The island is surrounded by parking for 16 transit buses, with an estimated daily ridership of 10,000.

Results

The deadline for lease proposals was October 31, 1983, and final costs and revenue figures are available. Total projected expenses for buildings and grounds maintenance, management, utilities, and security are $200,000 yearly. Total projected revenues are $100,000 yearly ($5,000 from office space, $6,000 from pay telephone lease revenue, and $89,000 from island booth space). This produces a total projected deficit of $100,000 per year. Rent is based on a fixed rate and/or a percentage of gross income.

The transfer facility increased ridership, and moved bus parking off the street and loiterers out of the area. Both the Pacific Garden Mall and the new businesses have benefited greatly from the new central bus terminal.

Legal Issues

The Santa Cruz City Council passed a draft law to allow SCMTD to purchase the land after it demonstrated a public need for the terminal. The SCMTD and the individual businesses bought the land.

Political Issues

On the whole, there is public and official support for the project. The design is innovative, and the surrounding commmunity is pleased with the center's presence.

Timing

Planning for the Metro Center began in 1979. Tenants were selected in November, 1983 and the facility opened in June, 1984.

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References

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VII. Private Development and Provision of Facilities and Services

The recent re-introduction of the private sector into the development and provision of transportation facilities and services is part of a larger movement towards privatizing public services. It often results in substantial public sector savings due to creation of a competitive environment for service provision, or creates the opportunity for the private sector to wholly finance infrastructure which would otherwise be funded publicly.

- In **Tampa, Florida**, development of a people mover was a private sector initiative with little or no role for the public sector in funding or controlling the project.

- Partial control was retained by the public sector over the **Las Vegas, Nevada** people mover. Financing this transit system will be a private responsibility.

- In **Las Colinas, Texas**, a master-planned, multi-use development, a people mover is part of the plan conceived by the prime developer. Developers of individual commercial buildings must include guideway segments in their projects. Construction of linkages between segments, rolling stock acquisition, operations and maintenance are the responsibilities of a utility district funded by assessments. The district will contract with a private company to build the system.

- New legislation in **Texas** allows private developers and property owners to create special road utility districts, issue tax-exempt bonds, and construct arterials and feeder roads.

- In **Detroit** a private company owns and operates a toll bridge connecting Detroit to Windsor, Ontario. The bridge competes with a nearby toll tunnel for revenues.

- The public sector retains control as to what fixed-route transit service shall be provided and subsidizes the service provided by private companies in **Johnson County, Kansas** and **Snohomish County, Washington,** but at less cost than that of public transit agencies in the region.

- Similar arrangements and savings are effected by public agencies contracting with private companies for dial-a-ride and shared ride taxi services in **Kankakee, Illinois,** and **Ann Arbor, Michigan.**

- In **San Gabriel Valley, California**, withdrawal from the Southern California Rapid Transit District and creation of a special Transportation Zone, wherein a new public agency would contract for services with a private company, is expected to save taxpayers money and prevent service reductions.

Privately Financed People Mover

Overview

Tampa, Florida *(1984 pop. 724,454)* - Harbour Island, a 177-acre, $1 billion development situated just off downtown Tampa, Florida is being constructed as a residential retail and office community. This includes 11,000 square feet of retail and 200,000 square feet of office space, and a 300-room luxury hotel. Further office construction and 4,500 dwelling units are also planned. An elevated guideway, one-half-mile long shuttle transit system connects Harbour Island with downtown Tampa. The system uses 100-passenger, air-cushion supported vehicles.

The Harbour Island People Mover developed by the Otis Elevator Company was totally financed by Harbour Island Inc. (a subsidiary of Beneficial Corporation), at a cost of about $7.3 million.

Harbour Island Inc. expects the people mover to help sell the development as well as provide a transportation service to and from the island.

The Hillsborough Area Rapid Transit Authority (HART) agreed to lease the right-of-way on one of the downtown streets to Harbor Island Inc. for the construction of the guideway.

Building a 140-foot long span beam over the crosstown expressway represented a great technical challenge for the contractor. The expressway authority would not allow the contractor to put a support column in the space between the elevated east and west bound lanes of the expressway.

In addition to the people mover the developer also has constructed two road bridges to the island costing $4.4 million. The City of Tampa is currently undergoing a study for a larger people mover network in the downtown area into which the Harbour Island shuttle might tie.

Results

There is an agreement between the developer and the transit authority that the developer will operate and maintain the system for the next 15 years and then sell it to HART for $1.00. Currently the shuttle operates under contract to the developer. Annual operating costs have been estimated at $500,000. The fare on the system is 25 cents. It is projected that the peak hour patronage by the year 2000 will approach 5,200 passengers.

Legal Issues

No legal problems were encountered.

Political Issues

No political problems were reported.

Timing

Fast track design and close cooperation among government officials made it possible to finish project construction in eight months. The guideway was completed in the Fall of 1984 and the system went into operation in June,

1985 in conjunction with the opening of Harbour Island.

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References

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Privately Financed People Mover

Overview

Las Vegas, Nevada *(1984 pop. 536,473)* - In September, 1984 the City of Las Vegas requested expressions of interest from private companies interested in planning, financing, building, and operating an automated people mover system. After a pre-proposal conference in October, 1984, three companies made presentations to the City, and the contract was awarded to Magnetic Transit of America. Details of the actual guideway, alignment, and station locations delayed progress but have since been selected, and final engineering and design is now being completed.

Las Vegas People Mover Corporation, a subsidiary of Magnetic Transit of America, will oversee construction and operate the system once it is complete. The only costs incurred by the City are for the right-of-way and a utility location study. If utility obstacles are found the City will share the costs of relocating the utility, but the City is taking steps to avoid such expenditures.

Magnetic Transit of America oversees projects in the United States and Canada involving the technology of the M-Bahn, developed by Magnet-bahn GmbH of Starnburg, West Germany. The Las Vegas People Mover will be the first installation of the M-Bahn technology in the U.S. It will be an elevated magnetic levitation, fixed guideway system.

The baseline route is approximately a mile-and-a-quarter long, and will have four stations, including one located inside the new Las Vegas library. Public operation will begin in 1988. M-Bahn vehicles are magnetically propelled by linear induction motors located in the guideway. The vehicles are levitated above the guideway by permanent magnets located in the undercarriages. Since both the weight and the friction are low, the system energy requirements are small compared to conventional systems.

The estimated cost of constructing the system is $40 million. Details of how to involve investors in the people mover system are still being explored by Magnetic Transit.

Results

The City of Las Vegas will receive a people mover, a valuable addition to its public transportation system. Design, implementation, and operation will be without direct cost to the City. The people mover is part of a three-phase transportation improvement program which also includes a new downtown transportation center, and twelve new shuttle buses. The people mover and shuttle buses will operate on different routes.

Legal Issues

No legal issues were reported.

Political Issues

Cooperation has been extensive between the City, local businesses, and the Downtown Progress Association. There have been no political problems.

Timing

The first request for expressions of interest was made in September, 1984. After a pre-proposal conference in October, 1984, three companies made

presentations in December, 1984. Magnetic Transit of America was chosen in January, 1985, and the contract was signed in August, 1985. Public operation will begin in late 1988 or early 1989.

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Privately Financed People Mover

Overview

Las Colinas, Irving, Texas *(estimated 1986 Las Colinas daytime pop. 50,000; resident pop. 20,000)* - The new 12,500-acre Las Colinas master-planned community located midway between the Dallas/Ft. Worth International Airport and downtown Dallas is developing a unique internal transportation system, the Las Colinas Area Personal Transit (APT) System. The community is expected to accommodate a total employment of 150,000 as well as 50,000 permanent residents. Its urban center is expected to contain about 20 million square feet of commercial space. In the urban center only four or five million square feet are currently completed with an occupancy rate of 78 percent. The system's uniqueness lies in the fact that portions of the elevated-guideway system are being built by the developers on whose site the guideway passes. The transit system will eventually be ten to 15 miles in length.

Las Colinas included the proposed transit sytem in its master plan because the transportation system, which will be connected with the Dallas Area Rapid Transit (DART) rail network, will be valuable as a marketing tool for the community. The transit system will tie together the urban center of Las Colinas and will eventually permit connection directly to the interior of office buildings.

The connecting lengths of the guideway, the transit system, and the operation of the system will be provided by the Dallas County Utility and Reclamation District. This district is a special water district that is enabled by Texas legislation to levy an ad valorem tax subject to voter approval. The present tax rate is 75 cents per $100 of property value in the district. A combination of this tax and farebox revenue will be used to pay the operational costs of the transit system.

Results

The APT system includes an initial procurement of nine dual-lane miles of guideway that will be completed as a four-phase project in ten years. Phase one includes 1.25 miles of elevated guideway. Extensions to the system will eventually bring the system up to 15 miles of dual-lane guideway. Design and construction of the system started in 1978. The Westinghouse Electric Corporation was chosen to provide the transit vehicles and operating system which involves using the state-of-the-art C45 system. The C45 is a successor to the C100 system that is used in Orlando and Miami, Florida. Approximately 5,000 feet of guideway has been constructed. Initial operation of the transit system will be June 1, 1989.

Legal Issues

Four objectives were targeted in contract negotiations. The first was to develop the initial phase of the project, 10,000 feet of guideway, with a fixed price without an economic price adjustment. The second was to include a five-year contract of operations and maintenance with 99 percent reliability required. The third objective provided that unit prices for expansion be guaranteed for ten years without escalation. The fourth objective involved the provision of shop drawings by the suppliers in the event of discontinuation of contracted service. The establishment of guaranteed unit prices is a product of pre-negotiation.

Several meetings were held with contenders for the job to pre-negotiate the contract and all terms and conditions. Bidding occurred after the individual suppliers agreed to the terms of the contract. Over 30 meetings were conducted with each of the suppliers. Technical, special, and general provisions and the invitations for the bids were negotiated separately with all of the suppliers resulting in one set of contract documents that accommodated all participants. This procurement procedure tends to reduce the risk to suppliers.

Political Issues

No political problems were reported.

Timing

Guideway construction began in 1978. The system is expected to be operational by June 1, 1989. A bond issue for $5.5 million occurred during January, 1986. An additional bond issue will occur in January of 1987 for $8.5 million. These bond issues are a regular part of the District's procedures; only a portion of this money goes directly to the transit system.

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Road Utility Districts

Overview

State of Texas *(1984 pop. 15,988,538)* - Legislation passed in Texas in 1984 allows property owners to build roads on their properties, finance them with tax exempt bonds backed by ad valorem assessments on the properties, and then to transfer them to the State, County, or City. Developers have in the past financed needed roads themselves, and passed the costs along to the home or office buyer, or negotiated special agreements with the State. The Road Utility District Act makes this process faster and less expensive by allowing the creation of a road utility district of area property owners for the purpose of constructing, acquiring, and improving roads on their land. While this is especially useful to developers who might otherwise face costly delays in making their undeveloped property accessible, it also benefits the purchaser, since the road utility district can issue tax-exempt bonds which carry lower interest rates. A third beneficiary is the governmental entity with jurisdiction over the area: the City, County, or State receives the road free of charge when construction is complete.

Property owners begin the process by devising a road improvement plan for the combined property area and petitioning the SDHPT and the City or County in which the land is located for approval of a road utility district for that combined land. The plan must meet certain criteria: the proposed facilities must be feasible, practicable, and necessary; the land to be included in the proposed district must be benefitted by the creation of the district; the district must be able financially to issue and pay bonds of the district; and the improvements must be to the specifications of the appropriate government.

If, after a public hearing, the plan is found to meet the above discussed criteria, and if the appropriate governmental entity agrees that it will accept the road when finished, the petition will be given preliminary approval. An election within the boundaries of the proposed district is then held to confirm the approval and to elect temporary directors of the district; a majority of residents voting in the election must favor the plan for the district to be formed.

Results

A district is now proposed in Denton County (Denton County Road Utility District #1), which will finance $30 million in arterial and feeder road construction in the city of Lewisville, as well as making improvements to a State farm-to-market road, and acquiring right-of-way and constructing outer frontage roads for a spur of a designated State highway. The District covers over 1,400 acres.

An application has also been filed for a district on the north side of Houston.

Legal Issues

A road utility district is empowered to accept gifts and grants, issue tax-free bonds and notes, assess ad valorem taxes, levy additional taxes for the operation of the district, and impose fees. Elections are required to approve bond issues and the imposition of ad valorem taxes by which the bonds will be backed, and to approve additional maintenance taxes used to operate the district. The bond issue and ad valorem tax require a two-thirds majority; the maintenance tax a simple majority.

The bonds, notes, anticipation notes, and other debt issued may not exceed one-fourth of the assessed valuation of real property within the district. While the City, County, or State will be responsible for the road once it is completed, the district remains responsible for all debt.

Political Issues

No political problems were reported.

Timing

The Road Utility District Act (S.B. 33) was passed in the Summer of 1984. Two districts have applied for State approval in 1986.

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Private Toll Bridge

Overview

Detroit, Michigan *(1984 pop. 1,088,973)* - The Ambassador Bridge is a privately-owned toll bridge connecting Detroit, Michigan and Windsor, Ontario. The steel-suspension bridge spanning the Detroit River was opened in 1929 by the Detroit International Bridge Company under the management of financier Joseph A. Bower. The original tolls were 50 cents per car and 1 cent per 100 pounds of truck. Central Cartage Co., a Michigan trucking firm that bought the bridge in 1979 for over $30 million, currently charges $1.00 per car and $1.50 per 100 pounds of truck. The tolls are collected at the entrance. Commuters may buy books of 40 toll coupons for $30, lowering the charge to 75 cents. The only other crossing in the area is the privately operated Detroit-Windsor Tunnel, which charges identical tolls.

Results

Detroit and Windsor each receive approximately $800,000 per year in property taxes from the bridge, as well as the benefit of a well-maintained facility which costs them nothing.

Central Cartage earns gross revenues of about $10 million per year, out of which its costs include $4 million per year in interest payments on debt obligations and $3.5 million to $4.5 million in capital improvements.

Legal Issues

The Ambassador Bridge is under the jurisdiction of the U.S. Department of Transportation and the Canadian Transport Commission. When the bridge was sold in 1979, there were no problems with the U.S. government, but the Canadian government resisted the sale. However, inconsistent with the provisions of the original charter, the Canadian Foreign Investment Review Agency attempted to keep the Canadian half of the bridge from being sold. While nothing could be done legally, Central Cartage had political difficulties with the Canadian authorities.

Political Issues

Central Cartage is still experiencing political problems with the Canadian government.

Timing

The Ambassador Bridge was built in 1929. The financier shortened the construction schedule by eight months by offering his builder half of each day's tolls for each day he finished ahead of schedule. Various firms began bidding to acquire the bridge's owner, the Detroit International Bridge

Company, in 1977, and Central Cartage bought it in 1979.

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References

"Seeking the Shelter of a Detroit Bridge," *in Business Week*, November 7, 1977.

"Bridges: Back to Private Enterprise?" in *Technology*, January/February, 1982.

"Investment of the Future: Own Your Own Toll Bridge," in *Entrepreneur*, June, 1982.

Contracted Bus Service and Maintenance

Overview

Johnson County, Kansas *(1984 pop. 296,435)* - Johnson County is a rapidly growing suburban area outside the Kansas City metropolitan region. In 1982, Johnson County withdrew from the Kansas City Area Transit Authority (KCATA) when it elected to contract for commuter and circulator bus service with a local private firm. The firm's $730,000 bid for the commuter service was $470,000 less than KCATA's bid. Because the county gave up around $486,000 in Federal subsidies when it moved to the private provider, it is estimated that the county saved only about $17,000 in its first year of contracting. However, the county gained greater control over service and freedom from diminishing Federal operating subsidies.

Beginning in January, 1986, Johnson County competitively procured services from ATE Management and Services Co. of Cincinnati, Ohio. ATE subcontracts with Ryder Truck Rental, Inc. to provide vehicles, fuel, maintenance, and an operating garage. The Johnson County contract provides for an expanded route system and new equipment. The service is funded almost exclusively out of farebox and general local tax revenues. The county generates some revenues from an advertising contract and receives $45,500 in UMTA Section 18 funding for a route which extends into a rural area.

Ryder's subcontract is about $750,000 annually or 55 percent of the total contract cost. This includes vehicle depreciation and interest of around $380,000, or 29 percent of the total contract cost.

Results

Express service is provided between points in Johnson County and the Kansas City Central Business District (six routes; 12 peak vehicles; 1,025 vehicle-miles per day). Intra-county circulator service is provided by high-roof mini-buses (four routes; eight peak vehicles; 1,160 vehicles-miles per day). All service is provided on weekdays only. The vehicles are clearly marked with the Johnson County logo.

The annual contract cost to Johnson County is $1.32 million. The commuter service costs approximately $3.08 per vehicle-mile or $52 per vehicle-hour. The circulator service costs approximately $1.75 per vehicle-mile or $23 per vehicle-hour.

Legal Issues

A distinguishing feature of the new contract is the number of explicit performance standards. Repeated violation of a performance standard without adequate remedy can lead to penalities ranging from $2,000 to cancellation of the contract.

Political Issues

No political problems were reported.

Timing

Johnson County first contracted for commuter and circulator service in 1982. Services under ATE operation began in January, 1986. The contract

extends for three years with three one-year extensions.

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References

"Contracted Bus Service and Maintenance: Johnson County, Kansas," in *Private Sector Briefs*, prepared by Rice Center, May, 1986.

Contracted Transit Service

Overview

Snohomish County, Washington *(1984 pop. 368,085)* - Contracted commuter service and maintenance will be provided for the Snohomish County Public Transportation Benefit Area Corporation, commonly known as Community Transit, by ATE Management and Services Company starting in September, 1986.

This service was previously performed by Seattle Metro which provided commuter park-and-ride and express service from urbanized areas in southwest Snohomish county to Seattle's Central Business District. Community Transit elected to competitively-procure approximately 70 percent of that service.

ATE will perform all operating functions on a turnkey basis. Community Transit will continue to perform planning, scheduling, and marketing functions. Vehicle maintenance is contracted through two local firms. ATE intends to hire drivers, store buses, and contract for support services locally.

Results

The contract with ATE is for a fixed total price averaging $2.95 million annually over five years. The contract extends for three years, with a one-year or two-year renewal option available to Community Transit at present prices. The contract allows for extensions to a maximum total of 15 years. Insurance is not included in the contract price, and will be treated as a pass-through expense. The service to be contracted from ATE would cost approximately $4 million annually (including insurance) if procured from Seattle Metro at current costs.

The average annual operating cost (without insurance) will be about $1.6 million for an expected 26,000 revenue-hours of service per year. The operating cost in the first year will be $59.22 per revenue-hour, rising at an average rate of 9 percent in subsequent years.

At the time of the bid, ATE submitted an insurance quotation of $247,000 for the first year. Liability insurance rates were actually as much as three times that bid. Insurance costs could therefore raise the unit price by about 20 to 25 percent. The possibility of self-insurance will be aggressively pursued once the service is fully operational and running smoothly.

The annual cost of Community Transit's vehicle sublease will be $1.43 million ($29,272 per vehicle per year). ATE will amortize vehicle cost at a rate of around $23,000 per vehicle per year, to a salvage value of about 20 percent of original cost. At the termination of the five-year lease, Community Transit will have a first right of refusal option to buy the buses.

Legal Issues

For changes in the level of service within 25 percent of the total, the contract price is increased or decreased at predetermined rates. The marginal adjustment rate for the first year is $27,985 per revenue-hour required, plus 0.726 cents per revenue-mile required, plus a negotiated charge if additional vehicles are required.

Community Transit may cancel the contract at its convenience; however, to cancel the contract without cause, Community Transit must take over the bus leases, buy ATE's supply inventory at cost, and buy out the ATE contract at a predetermined maximum cost (about $300,000 during the first year, less in the following years).

Political Issues

No political problems were encountered.

Timing

The Request for Proposal (RFP) was issued in September, 1985. Interviews with two nationally-recognized private firms and awarding of the contract occurred in February, 1986. Services will begin in September, 1986. The contract extends for three years, with a one-year or two-year renewal option available to Community Transit at preset prices.

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Reference

"Contracted Commuter Service and Maintenance; Snohomish County, Washington," in *Private Sector Briefs*, prepared by Rice Center, June, 1986.

Contracted Taxi Service

Overview

Kankakee, Illinois; Aroma Park, Illinois; and Bradley, Illinois *(1984 pop. 100,146)* - Contracted taxi service is provided for the region's elderly and handicapped in the Greater Kankakee area, funded by fares, the City of Kankakee, and the Federal government.

A 1979 transit study of the greater Kankakee area suggested, among other options, the implementation of a taxi-van program for the elderly and handicapped. In 1980, Kankakee began its taxi portion of the service. A private cab company operates a total of 13 vehicles 24 hours a day, seven days a week. The City sells $1.50 coupons to the elderly and handicapped for 50 cents; one coupon per trip may be used. The Federal Highway Administration reimbursed one-half of the operating deficit under Section 18 of the Urban Mass Transportation Act until June 1982, when Kankakee was reclassified as an urban area. The City has since used Section 5 funding through a newly-organized metropolitan planning organization.

Results

In the first year of operation, over 20,000 trips were taken for a total fare revenue of about $11,000. Expenditures totalled approximately $35,000, so the Federal Highway Administration granted some $12,000 to match Kankakee's share of the deficit. The figures for the following fiscal year are very similar. By late 1985, there were over 1,600 persons registered for the program.

Legal Issues

The City of Kankakee contracts with the taxi company. The service is coordinated through the City's Planning Office.

Political Issues

A protest by the Community Action Program, which had applied for the same funds, held up funds for eight months. The Illinois Department of Transportation arranged to have the complaint withdrawn.

Timing

The Transit Development Program was adopted by Kankakee County in June, 1979. In June, 1980, Kankakee began its taxi program, serving Kankakee and Aroma Park. In September, 1983, the Village of Bradley was added to the system.

Contact

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References

Taxi/Van Program, brochure.

Taxi/Van Program, factsheet, July, 1983.

Kankakee Area Transit Development Program, prepared by H.W. Lochner, Inc. for the Kankakee County Regional Planning Commission, June 1979.

City of Kankakee, Illinois Transportation Program: Report on Examination of Financial Statements, prepared by Topping, Gianotti, and Payne, CPAs, June, 1980, June, 1981, June, 1982.

Contracted Taxi Service

Overview

Ann Arbor, Michigan *(1984 pop. 107,673)* - The Ann Arbor Transportation Authority (AATA) subcontracts with a local taxi company to operate a late-night, shared ride taxi service called Night Ride.

The AATA was unable to find any examples of contracted taxi service being used for general transit purposes (rather than special purposes such as transportation of the elderly or handicapped), and so developed its own service criteria. The features AATA chose included costs which were determinable in advance, fixed fares, and service that was simple to administer. The original contract for the service was awarded after a bid process. The latest bid was awarded after an RFP advertisement.

Prior to beginning the Night Ride service, AATA offered weekday evening dial-a-ride service until 11:15 p.m. A few fixed routes also operated during the evening hours.

Four vehicles are operated from 10:00 p.m. to 12:00 a.m., three vehicles from 12:00 a.m. to 1:00 a.m., two vehicles from 1:00 a.m. to 2:00 a.m., and one vehicle from 2:00 a.m. to 6:00 a.m. The vehicles are dedicated to the service by the cab company, which provides the vehicles, drivers, fuel, maintenance, and dispatch. The AATA pays a fixed subsidy of $10.50 per vehicle hour, and each passenger sharing the cab pays a fixed fare of $1.50 per ride. Reservations for the service are made on the day service is needed.

The Urban Mass Transportation Administration funded the first year of service (1982) under a demonstration grant. The AATA Board of Directors has elected to continue Night Ride with local revenue sources since that time.

Results

There were no specific figures reported for the prohibitive cost of a comparable late night bus service. Comparable taxicab prices are $1.00 per flag drop and $1.10 per mile.

Between April, 1982 and March, 1983, 14,587 passenger trips were taken on Night Ride, for an average of 3.3 passengers per vehicle hour. Between April, 1983 and August, 1983, the average of passengers per vehicle hour remained at 3.3. Passengers per vehicle hour increased to 3.7 in FY 1984 and totaled 3.4 in FY 1985. The total subsidy in FY 1985 was $56,265 or $2.93 per passenger.

Ridership is higher when the University of Michigan is in session, on Fridays and Saturdays, before midnight, and just before 6:00 a.m. Surveys showed that more passengers were diverted from automobiles than from taxis and walking combined. Since the main attraction of Night Ride is its provision of personal safety when traveling late at night, it may be that some drivers are now more willing to use public transit during the day if they can return safely at night.

Legal Issues

The municipal taxicab ordinance prohibited shared rides and required that fares be based on the taximeter. However, there was a provision exempting mass transportation service from these regulations, and the AATA convinced the municipal board which oversees taxi operations that this clause applied to Night Ride.

Political Issues

No political problems were reported. The AATA has decided to continue the service.

Timing

During 1981, citizen groups approached the AATA requesting service during late night hours. After two Ann Arbor taxi companies failed to agree on a joint service proposal, the AATA advertised for bids in February, 1982. Operations began in March, 1982.

In the Summer of 1984, the service quality provided by the cab company deteriorated. Upon contract expiration, the AATA issued a request for proposals. The successful proposal was by a different cab company which has a higher quality of service at a higher cost.

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References

Ann Arbor Transportation Authority Invitation for Bids: Late Night Shared Ride Demand - Responsive Transit Service, February, 1982.

Late-Night, Shared-Ride Taxi Service in Ann Arbor, Michigan, prepared by G. Christopher White for the Policy and Planning Committee of the American Public Transit Association, October, 1983.

Transportation Zones

Overview

San Gabriel Valley, Los Angeles County, California *(estimated 1986 Valley area pop. 1,300,000)* - The San Gabriel Valley area may separate from the Southern California Rapid Transit District (SCRTD) and form its own transit service or a "transportation zone" under the purview of the Los Angeles County Transportation Commission (LACTC). The LACTC has adopted special criteria for the formation of transportation zones, such as conditions in setting transit zone boundaries, maintaining levels of service, and a requirement to demonstrate a potential 25 percent savings over the first three years of operation. The zone would independently set service policies and competitively contract those services currently provided in the Valley by SCRTD.

The move to create a transportation zone resulted from SCRTD fare increases following a period of specially subsidized low fares, and projected service cuts in the Valley.

Approximately one-quarter of the routes in the SCRTD system are contained within the San Gabriel Valley, which houses 29 separate municipalities, and service cuts to this area were anticipated to be disproportionately high.

Results

Because of the successful competitive contracting experiences of other cities and the knowledge that SCRTD incurs some of the highest operating costs per unit of service in the public transit industry, it is projected that the residents of the San Gabriel Valley will get more service at a lower cost by competitively contracting with private operators for service provision. Approximately 450 SCRTD buses will be affected by the change. The LACTC expects that the zone will take over about 60 to 70 percent of SCRTD's local service.

Legal Issues

The LACTC is authorized under its State enabling legislation to create local transportation zones where the SCRTD "cannot otherwise provide adequate and responsive local transportation services in a cost-effective manner."

Political Issues

The LACTC requires the consensus approval of the cities within the proposed zone in order to create the zone. There is concern that operators in the area may try to keep other operators from entering the market, as well as that labor unions may protest the removal of such a large portion of SCRTD's service from a public operator.

Timing

In December of 1984, a study was proposed to consider creation of the separate transportation zone for the San Gabriel Valley. The study received UMTA funding approval in December, 1985. Parsons, Brinckerhoff, Quade & Douglas was selected by the county to prepare a two-part transportation zone application to the LACTC. Phase I considers relevant express service and its application should be completed by the end of October, 1986. Phase II examines the remaining service and its application is expected to be completed in May, 1987. After LACTC approves the applications, express

service could begin as early as July, 1987, with regular route service beginning in January, 1988.

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Reference

"Planning - Transportation Zones: San Gabriel Valley, Los Angeles, California," in *Private Sector Briefs*, prepared by Rice Center, May, 1986.

VIII. Toll Financing

Toll financing has substantial historical precedent in transportation; a Virginia toll road connecting Alexandria to Berryville was completed in 1785. Toll financing has not been widely used in new facilities in recent years as most new limited access (freeway) facilities were constructed as part of the interstate or other Federal road systems. However, as public funding appears more and more limited, toll financing is regaining popularity as an effective technique for financing, building, and operating a specific roadway which might otherwise not be feasible for the public sector to construct. Toll roads tend to be completed more rapidly than free highways; the sooner the road is completed, the sooner revenue generation begins. Under present law toll-financed roads must be completely independent of Federal funding programs. Legislation now being considered by Congress may make Federal funds available for construction of toll facilities, subject to an agreement that any excess toll revenues will be used for highway improvements. Revenues from tolls would be used for maintenance, operating, debt service, and necessary improvements on the tollway before diversion to construction on other public roads.

- The Dulles Toll Road in **Fairfax County, Virginia**, constructed within the same right-of-way as the Dulles Airport Access Road, is immensely popular. Toll revenues cover all facility-related costs.

- Two toll roads are being constructed in **Harris County, Texas** where the County itself is also the toll road authority. Substantial savings in the cost of money have been realized due to the County's excellent bond rating and its support of the bond issue with the County's full faith and credit.

- The South Crosstown Expressway in **Tampa, Florida** is a hybrid of a toll and publicly funded facility. Tolls are being used to retire bonded indebtedness, however the State will contribute to the operations and maintenance of the facility throughout the life of the bonds.

Dulles Toll Road

Overview

Fairfax County, Virginia *(1984 pop. 672,937)* - The Dulles Toll Road is a 13-mile facility linking Dulles International Airport to highways leading to the Washington, D.C. metropolitan area. Bonds financing the toll road were backed by the full faith and credit of the Commonwealth of Virginia, and the road became operational October 1, 1984. Toll revenues cover all operating and debt service costs of the facility. Fairfax County pledged to contribute funds during the start-up period when toll revenues were projected to be insufficient to cover costs. Also, construction costs of the facility were substantially reduced, because the facility is on land owned by the Federal government, parallel to the existing Dulles Airport Access Road. Very little right-of-way had to be acquired.

Results

Fairfax County's commitment was for $5 million in front-end costs, but actually only approximately $2 million was given since private donations of land, right-of-way, and the like reduced the cost considerably. In addition, Fairfax County contributed $1.5 million for design and engineering.

The minimum toll is 25 cents, and the maximum toll, for a full length trip, is 85 cents. Capital costs are expected to be recouped by 2004. Total receipts for the first year of operation were $8.2 million, well in excess of the forecast first year revenue of $6.4 million. A proposal to widen the road is under consideration.

Legal Issues

Fairfax County made a commitment to the State Department of Highways and Transportation to put up $5 million in front-end costs. The full faith and credit of the Commonwealth of Virginia is offered under Section 9(C) of Article X of the Constitution of Virginia which allows such a pledge if the project is deemed to be self-supporting.

Political Issues

An attitude survey done as part of the initial feasibility study found that building the toll facility was favored by as many residents as were opposed to it. Fairfax County perceived the project as essential to its continued economic growth.

Timing

The initial financial feasibility study for the Dulles Toll Road was completed in 1979. An update of that study was done in November, 1982 to assess the impact of a substantial increase in interest rates, at which point higher toll rates and the support offered by Fairfax County resulted in a financially feasible project. Bonds were issued in late 1982. Complex negotiations with the Federal Aviation Administration about use of its land were drawn out over nine to 12 months. The road opened on October 1, 1984.

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Reference

Dulles Toll Road Study, prepared by JHK and Associates for the Virginia Department of Highways and Transportation, January, 1979, updated 1982.

County Toll Road Authority

Overview

Harris County, Texas *(1984 pop. 2,747,341)* - The Harris County Toll Road authority (HCTRA) has been created to finance, construct, and operate two toll roads in north and west Harris County in Houston, Texas. A referendum on the bond issue was put before voters in September, 1983, and received 70 percent approval. The referendum authorized issuance of $900 million in general obligation bonds. In late September, 1983 the Harris County Commissioners Court created the HCTRA and sits as its governing board. The first bonds were issued in November, 1983.

The HCTRA is responsible for building the 21-mile Hardy Toll Road and the 28-mile West Belt Toll Road. The Hardy Toll Road will provide an additional corridor between two major north-south freeways in Northern Harris County, as well as provide additional access to Houston's Intercontinental Airport. The West Belt Toll Road will connect US-59 south of Houston to IH-45 on the north side. Funds for the roads are being provided by bonds, half of which are revenue bonds backed solely by toll revenues, and the other half of which are general obligation bonds backed by toll revenues and the tax credit of the county. These bonds lessen the risk to the investor, providing a major benefit to the County toll road authority; the interest rates on county authority bonds are significantly lower than on revenue bonds issued by the Texas Turnpike Authority.

The establishment of HCTRA represented a local response to a local mobility problem. Moreover, projects will be completed more quickly by HCTRA than if constructed by the Texas State Department of Highways and Public Transportation (SDHPT). The HCTRA and SDHPT have cooperated extensively in the planning of these projects. Construction, which began in September, 1984, is proceeding rapidly on both roads and the northern portion of the Hardy Toll Road will open in September, 1987, ten months ahead of schedule. The HCTRA has received construction bids on both projects resulting in a $27 million budget reduction, and has been able to reduce its budget by another $20 million through other factors. The low bids are due in part to a highly competitive market in Houston and low inflation rates.

Results

Harris County will have two major new highways in a much shorter time frame than it might otherwise have had. The Hardy Toll Road will be fully operational in 1988, just five years after creation of the Authority. Only about $550 million of the $900 million in bonds authorized by the bond referendum have been issued; the remaining bonds are backed only by toll revenues and have been issued separately. Therefore, the risk to the County and its taxpayers is less than that originally approved by the voters.

Legal Issues

Enabling legislation had to be passed by the State legislature to allow creation of a county toll road. Harris County officials were instrumental in that effort. A voter referendum was also required on the bond issue because the voters had to approve issuance of bonds backed by the tax credit of the County.

Political Issues

Harris County has an AAA bond rating -- better than the Texas Turnpike Authority, and its interest rates are therefore lower. Voter concern over the bond issue was tested in the bond referendum, which was approved by 70 percent of the voters.

Timing

The enabling legislation was passed in 1983. The bond referendum passed September, 1983, and HCTRA was immediately created. The first bonds were issued in November, 1983, and bond issues continue as needed. Construction began on the Hardy Road in September, 1984 and will be completed in July, 1988. Construction began on the West Belt in July, 1985 and will be completed in 1990.

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State and Local Toll Financing

Overview

Tampa, Florida *(1984 pop. 1,724,454)* - The South Crosstown Expressway, a 17.5-mile toll facility, was made feasible by contributions from the State government which reduced the total cost of the project. Bonds were issued on behalf of the Tampa-Hillsborough County Expressway Authority, a local toll road authority enabled by the State of Florida. The bonds are secured by the full faith and credit of the State of Florida, on the condition that the county authority use 2 cents of its "constitutional" State gas tax for debt service. The bonds are also being serviced by toll revenues. The State has contributed to the project by covering an initial shortfall ($18.8 million) in bonds sales, and by paying all annual operating and maintenance costs -- with the understanding that these will be repaid after the bonds have been retired. The Tampa-Hillsborough County Expressway Authority has a lease-purchase agreement with the State of Florida whereby "rent" on the facility equals the toll and gas tax receipts collected by DOT, and whereby DOT assumes ownership after all debt has been retired.

Results

Toll revenues for FY 1985-86 were $7.4 million (a 14 percent increase over the previous year). Long term outstanding debt is approximately $30.4 million.

Legal Issues

All agreements were authorized by the State Legislature. The State of Florida created the Tampa-Hillsborough County Expressway Authority and enabled it to construct and operate toll facilities. The lease-purchase agreement is between the Division of Bond Finance and the Tampa-Hillsborough County Expressway Authority. The full faith and credit of the State is pledged pursuant to Section 9(c) of Article XII of the Florida Constitution. Recent changes in State statutes allow tolls to continue to be charged after the bonds have been retired. Toll revenues would then be applied to expressway improvements.

Political Issues

No political problems were encountered.

Timing

The State continues to contribute to operating and maintenance costs throughout the life of the bonds. Use of gas tax revenues was necessary during the early years of operation until toll revenues were high enough to support the facility. The expressway was opened in two sections, in 1976 and in 1980.

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References

Preliminary Official Statement for $54,000,000 bond issue for "1971 Project" of Tampa-Hillsborough County Expressway Authority, April 24, 1972.

IX. A New Approach to Developing Rapid Transit

Demand for high-capital transit facilities far outweighs the potential supply of Federal funding. Recently, UMTA Administrator Ralph Stanley estimated that $19 billion in Federal funding requests for planned fixed-guideway systems have been made, and at most only a few billion dollars of Federal funds will be available through the end of the decade.

In an effort to examine alternative methods of rapid transit development, Congress mandated a study of the feasibility of rapid transit development in the corridor leading to Dulles International Airport in Virginia. The result is the **Dulles Corridor Rapid Transit Feasibility Report**, which is examined below.

Also examined in this section is an attempt by **Orange County, Florida** to fund a 35-mile people mover system using a public/private partnership.

Public Private Partnership in Rapid Transit Corridor Development

Overview

Fairfax County, Virginia *(1984 pop. 672,937)* - A congressionally-directed study which addressed the feasibility of the development of rail transit between Washington, D.C.'s Dulles International Airport and the West Falls Church Metrorail station was completed in 1985. The study outlines a new approach to public/private cooperation in the planning, financing, building, and operating of a rapid transit system.

Because of the expressed interest of a number of private groups in building a rail transit facility to the airport, the study simultaneously examined how such a facility might be developed as a cooperative venture between local governments and the private sector, with no direct Federal support. The study team identified light rail as a viable, low-cost rail transit technology that could be used to examine the feasibility of rail transit in the corridor. Capital and operating costs were determined by further analysis. Projected ridership and revenues were then determined using system performance specifications, and local population and employment projections.

The study assumed that neither Federal transit capital or operating assistance would be available. Two alternatives were examined: (1) a cooperative venture between local governments and the private sector, with no direct Federal support, and (2) a purely public sector project funded only by dedicated tax revenues.

The private sector financing option assumes creation of a Transportation District comprised of Dulles Corridor governmental jurisdictions. The District would pay a service fee to the system's private owner. Payment would be conditioned on delivery of transit service, and thus would not constitute a debt obligation of the Transportation District.

The study also examined value capture of benefits generated by the rapid transit service which accrue to non-transit users. Non-user beneficiaries include the airlines, property owners, developers, employers and employees, and other travelers in the corridor who chose to use their cars and thereby enjoy less traffic congestion.

Results

A comparison was prepared of the actual expenditures required to build the system under the two development scenarios. Present value costs of the public/private development would be $119.4 million, while a purely public sector project would require $181.3 million. The private sector approach leads to an aggregate present value savings to local governments of slightly less than $62 million (34.3 percent of the total public sector cost).

Legal Issues

A procurement approach was developed which would implement the private sector development. The private sector would satisfy itself that costs, ridership forecasts, and other details were such that the venture would be profitable. Sponsoring governments would assure themselves that the service fee and other commitments required to secure the service were justified. The result would reduce costs through competition while contractually transferring risks of cost overruns and performance to the private sector.

To implement the project, a Transportation District would have to be created with taxing or assessment powers.

Political Issues

The study was completed with the advice and assistance of a group of community leaders and prominent citizens.

The study recognizes the unique role of local governmental jurisdictions by acknowledging their lead responsibility for system specification, selection of value capture mechanisms, and the decision to pursue the procurement approach developed in the study. The process identified in the study should encourage other communities to examine local and private financing options.

Timing

The study was published in October, 1985.

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Reference

Dulles Corridor Rapid Transit Feasibility Report, prepared by Rice Center, October, 1985.

Related Experience

Orange County, Florida (1984 pop. 532,558) - Orange County officials examined the feasibility of a public/private partnership to finance a 35-mile, $350 million people mover system serving downtown Orlando, the International Drive motel/tourism complex, and Disney World, but decided not to proceed for reasons unrelated to the private/public arrangement.

Under the franchise agreement negotiated with Matra, the French company that built the VAL line in Lille, France, and Martin Marietta for the system, approximately 30 to 35 percent of the capital required would have been derived from turnkey sale of the system to private investors. The remainder would have come from the sale of tax exempt industrial development bonds (IDBs) and taxable borrowings from commercial banks. The County would have been responsible for an annual service fee.

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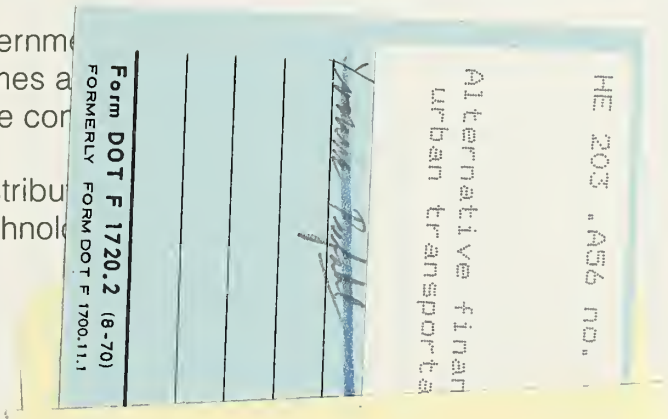

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